

Exhibit I

112906anchinovski

0001

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 In re

6
7 INTERNATIONAL BUSINESS MACHINES CORP.

8 SECURITIES LITIGATION

9 Civil Action No.
10 05 Civ. 6279
11 (AKH)

12 -----X
13 November 29, 2006
14 10:40 a.m.

15
16 Videotaped Deposition of
17 JOSEPH ANCHINOVSKI, taken by Defendant, pursuant
18 to Notice, at the offices of Labaton
19 Sucharow & Rudoff LLP, 100 Park Avenue, New
20 York, New York, before TAMMEY M. PASTOR, a
21 Registered Professional Reporter, Certified
22 LiveNote Reporter and Notary Public within and
23 for the State of New York.
24
25

0002

1 JOSEPH ANCHINOVSKI
2 A P P E A R A N C E S:
3 LABATON SUCHAROW & RUDOFF LLP
4 Attorneys for Plaintiffs
5 100 Park Avenue
6 New York, New York 10017

7
8 BY: JONATHAN M. PLASSE, ESQ.
9 -and-
10 SHELLEY THOMPSON, ESQ.

11
12 CRAVATH SWAINE & MOORE LLP
13 Attorneys for International
14 Business Machines Corporation
15 worldwide Plaza
16 825 Eighth Avenue
17 New York, New York 10019

18
19 BY: THOMAS H. KIM, ESQ.
20 -and-
21 ELIZABETH L. GRAYER, ESQ.

22
23 ALSO PRESENT:
24 NILDA ANCHINOVSKI, Plaintiff
25 RICHARD BLY, LegalLink Action Video

0003

1 JOSEPH ANCHINOVSKI
2 VIDEOGRAPHER: This is the video
3 operator speaking, Richard Bly of LegalLink
4 Action Video, located at 420 Lexington Avenue,
5 New York, New York. The court reporter is
6 TammeY Pastor of LegalLink Manhattan located at
7 420 Lexington Avenue, New York, New York.

8 Today's date is November 29, 2006.
9 The time on the record is 10:48 a.m. We are at

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112906anchinovski
10 the offices of Labaton Sucharow & Rudoff,
11 located at 100 Park Avenue, New York, New York
12 to take the videotaped deposition of Joseph
13 Anchinovski in the matter of In Re IBM
14 Securities Litigation in the United States
15 District Court for Southern District of New
16 York. Case number 05 CIV 6279 (AKH.)
17 would counsel please introduce
18 themselves.
19 MR. PLASSE: For plaintiffs
20 Jonathan Plasse.
21 MS. THOMPSON: Shelley Thompson
22 for plaintiffs.
23 MR. KIM: Thomas Kim on behalf of
24 the defendants.
25 MS. GRAYER: Elizabeth Grayer also

0004

1 JOSEPH ANCHINOVSKI
2 on behalf of the defendants.
3 VIDEOGRAPHER: Could the court
4 reporter please swear the witness.
5 JOSEPH ANCHINOVSKI,
6 residing at 1581 East 13th Street, Brooklyn, New
7 York 11230, having been first duly sworn by the
8 Notary Public (Tammey M. Pastor), was examined
9 and testified as follows:
10 EXAMINATION CONDUCTED BY MR. KIM:
11 Q. Mr. Anchinovski, before I begin, if
12 you don't understand any part of my question or
13 can't hear me, please tell me so and I will
14 attempt to clarify or restate the question. Do
15 you understand?
16 A. I will do that.
17 Q. Thank you. Could you please state
18 your full name and address for the record.
19 A. My full name is Joseph Anchinovski.
20 I live in 1581 East 13th Street, Brooklyn, New
21 York 11230.
22 Q. Could you give us your birth date
23 for the record.
24 A. 6/21/39.
25 Q. Mr. Anchinovski, are you currently

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1 JOSEPH ANCHINOVSKI
2 employed?
3 A. No. I am a retired person.
4 Q. When did you retire?
5 A. I retired in June 21, 2001.
6 Q. What was the last place of
7 employment at which you worked?
8 A. It was on my own shop in 88 Bowery,
9 New York. What's the question?
10 Q. What type of shop was that?
11 A. It is a jewelry shop.
12 Q. How long were you working at the
13 jewelry shop?
14 A. About 21 years.
15 Q. Were you the owner of the jewelry
16 shop?
17 A. I was the owner, with my wife.
18 Q. What did you do before working at
19 the jewelry shop on Bowery Street?
20 A. Not on Bowery Street I worked for a

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21 boss on the same trade. I worked for a boss in
 22 the same trade in different address, principally
 23 on 99 Canal Street about 15 years.

24 Q. Do you recall the approximate year
 25 in which you began working in the jewelry

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1 JOSEPH ANCHINOVSKI

2 business?

3 A. The year I start to work on the
 4 jewelry business?

5 Q. Yes.

6 A. In the year 1952.

7 Q. Between 1952 and your retirement in
 8 2001, did you have any other employment beside
 9 jewelry?

10 A. I did. I did. I worked for my
 11 future father-in-law as an apprentice.

12 Q. In what field was that?

13 A. It was, you know, like a
 14 bookkeeper.

15 Q. Could you elaborate, you say you
 16 were a bookkeeper, in what field?

17 A. Well, he was teaching me how to,
 18 you know, keep the numbers on the books and all
 19 of those things.

20 Q. Were you serving as a bookkeeper
 21 for a particular company?

22 A. No. No. Not really. Just for my
 23 father-in-law. And then I worked for a company
 24 as a salesman.

25 Q. Your father-in-law, what did he do?

0007

1 JOSEPH ANCHINOVSKI

2 A. He was an accountant.

3 Q. What company did he work for?

4 A. He was on his own. He worked for
 5 his own.

6 Q. I take it he served various
 7 clients?

8 A. No. Not really. He just had one
 9 company that he worked, he did work for, you
 10 know, his own. He kept his books and all of
 11 that. But when he took me to the company, the
 12 company was interested to my qualifications and
 13 I worked for them for about two years.

14 Q. Do you recall the name of your
 15 father-in-law's company?

16 A. Where he did work?

17 Q. Yes.

18 A. I don't recall it.

19 Q. Do you recall the approximate years
 20 in which you worked as an apprentice bookkeeper
 21 for your father-in-law, just generally speaking?

22 A. The year, about the year 1961.

23 Q. Did that last until 2001 or end at
 24 an earlier point?

25 A. I worked for two years only.

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1 JOSEPH ANCHINOVSKI

2 Q. So approximately 1961 to '63?

3 A. I would say, yes.

4 Q. You mentioned it was your future
 5 father-in-law.

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6 A. Yes.
7 Q. I assume that is Nilda's father?
8 A. Yes. I met my wife when I was 17
9 and we are 43 years married already, thank God.
10 Q. Before entering the jewelry
11 business did you have another place of
12 employment?
13 A. Another place of employment, you're
14 talking first I have to say that I come from
15 overseas, you know. So that's the question.
16 And over there, no, I didn't have any other
17 employment except that I did that kind of work
18 that I mentioned before.
19 Q. Did you graduate from high school,
20 Mr. Anchinovski?
21 A. No. Not really. Elementary
22 school.
23 Q. So in between the time you finished
24 elementary school and the jewelry business, I am
25 trying to fill in the years there.

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JOSEPH ANCHINOVSKI

1 A. Yes. That is fine. Please.
2 Q. Do you recall what you were doing
3 professionally, if anything, between the time
4 you finished?
5 A. Professionally I don't know, but I
6 know that I volunteer for the police department
7 and I worked as a policeman. It is work for one
8 year and that will do for my military service.
9 That was voluntarily.
10 Q. What year did you come to the
11 United States?
12 A. In the year 1964.
13 Q. From what country?
14 A. Buenos Aires, Argentina. Buenos
15 Aires, Argentina.
16 Q. Mr. Anchinovski, have you ever been
17 employed by IBM?
18 A. Never.
19 Q. Have you done any work ever for
20 IBM?
21 A. I will smile. No, they didn't want
22 me anyway. No. No.
23 Q. To your knowledge has any of your
24 family or friends ever been employed --

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JOSEPH ANCHINOVSKI

1 A. No. Not at all.
2 MR. PLASSE: You must wait until
3 he finishes the question and then answer.
4 A. I'm sorry.
5 MR. KIM: Thank you.
6 Q. To your knowledge have any of your
7 family or friends been employed by IBM?
8 A. No.
9 Q. As far as you know have any of your
10 family or friends ever done any work for IBM?
11 A. No.
12 Q. Do you know who Mark Loughridge is?
13 A. Yes, I do.
14 Q. Who is he?
15 A. CFO of IBM and a senior vice
16

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17 president.

18 Q. When did you first come to know who
19 Mark Loughridge was?

20 A. Well, in the beginning of the time
21 that I start to buy IBM.

22 Q. When did you start to buy IBM?

23 A. In the year 19 -- 2004.

24 Q. Do you recall the approximate month
25 or the month in which you began?

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1 JOSEPH ANCHINOVSKI

2 A. December of 19 -- 19 again -- of
3 2004.

4 Q. So just to clarify, you came to
5 know who Mark Loughridge was when you began
6 investing in IBM?

7 A. Yes, because whatever I read
8 probably I got across his name.

9 Q. What sort of things would you read
10 in which you came across his name?

11 MR. PLASSE: Wait. Can you
12 please -- objection, what time period are you
13 talking about?

14 Q. You mentioned you were reading
15 certain things in which you came across his
16 name.

17 A. Yes.

18 Q. In any time period, let's say the
19 end of '04 in which you began investing in IBM
20 to early '05.

21 A. Probably was on the beginning of
22 when I start to invest in IBM.

23 Q. Do you recall in that time period,
24 the end of '04, early 2005 what sort of
25 materials you were reading in which you saw Mr.

0012

1 JOSEPH ANCHINOVSKI

2 Loughridge's name?

3 A. Newspapers.

4 Q. Do you recall which particular
5 newspapers?

6 A. Wall Street Journal, New York
7 Times.

8 Q. Have you ever had the opportunity
9 to meet Mr. Loughridge?

10 A. No. Not at all.

11 Q. Have you ever spoken with Mr.
12 Loughridge?

13 A. Not at all.

14 Q. Have you ever worked as a paid
15 investment advisor?

16 A. Not at all.

17 Q. I take it you never worked in the
18 securities industry?

19 A. Not at all.

20 Q. And you never worked in the
21 technology industry?

22 A. Not at all.

23 Q. Just to cover it, I take it you
24 don't have any degrees, professionally?

25 A. No, I don't. No.

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1 JOSEPH ANCHINOVSKI

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2 Q. Mr. Anchinovski, are you on any
3 medication today that would affect your ability
4 to give full and -- if you don't mind letting me
5 finish.

6 A. Not today.

7 Q. If you don't mind letting me finish
8 my questions and just pause, then answer.

9 A. Yes. That is fine. You just
10 correct me.

11 Q. Mr. Anchinovski, are you on any
12 medication today that would affect your ability
13 to give full and fair and truthful answers to my
14 questions today?

15 A. No, sir.

16 Q. Is there anything else that you're
17 aware of that would affect your ability to give
18 full --

19 A. No, sir.

20 MR. PLASSE: Please wait until he
21 finishes his question.

22 A. Yes. Those are simple questions,
23 so I thought -- I'm sorry. I never was in this
24 situation.

25 Q. I understand. What is the size of

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1 JOSEPH ANCHINOVSKI

2 your investment portfolio in dollars?

3 MR. PLASSE: When? Objection.

4 Q. Currently.

5 A. Currently about \$125,000.

6 Q. Do you recall what the approximate
7 size of your investment portfolio was in dollars
8 at the end of 2004?

9 A. I don't recall it.

10 Q. Do you recall whether it was more
11 or less than \$125,000?

12 A. Probably more.

13 Q. Could you describe for me generally
14 the makeup of your investment portfolio
15 currently?

16 A. Can you put it in different words.

17 Q. Yes. I would like to know whether
18 you can tell me the various types of investments
19 in which you hold your money, whether it is
20 equity, debt, mutual funds or any other types of
21 investments.

22 A. Okay. Just common stocks and money
23 market account.

24 Q. No bonds?

25 A. No bonds.

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1 JOSEPH ANCHINOVSKI

2 Q. Could you tell me what percentage
3 of your total investment portfolio is in common
4 stock currently.

5 A. About 25 percent.

6 Q. And would the remainder be in the
7 money market?

8 A. Correct.

9 Q. Was that break down approximately
10 accurate as of the end of 2004, 25 percent
11 stocks, common stock, 75 percent money market?

12 A. Probably it will be 50 percent at

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13 that time.

14 Q. So half stock, half money market at
15 the end of 2004?

16 A. Yes.

17 Q. Do you recall why the allocation --
18 do you recall why the make up of your investment
19 portfolio changed from the end of 2004 to the
20 current day?

21 A. I was hurt and I didn't want to
22 risk no longer the same way.

23 Q. Would you please describe to me how
24 you were hurt.

25 A. I lost money in the year 2005.

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1 JOSEPH ANCHINOVSKI

2 Q. Do you recall whether that money
3 was money lost in a particular stock?

4 A. Most of it was on IBM stocks.

5 Q. Was there any other stock in which
6 you lost money between the end of 2004 and the
7 present day?

8 A. It probably was. I cannot recall
9 it.

10 Q. As of the end of 2004 do you recall
11 what your largest investment was?

12 A. At the end of 2004 I cannot recall
13 it.

14 Q. Do you recall whether at the end of
15 2004 you owned any securities beside IBM in the
16 technology industry?

17 A. Yes, I do recall.

18 Q. Could you name those securities?

19 A. Microsoft.

20 Q. Any others?

21 A. I cannot recall. I recall I think
22 another one, Sun Microsystems probably. I don't
23 recall exactly the name at this point.

24 Q. And at the end of 2004 are you able
25 believe to tell me the approximate dollar amount

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1 JOSEPH ANCHINOVSKI

2 you had invested in Microsoft?

3 A. I cannot recall that.

4 Q. Are you able to recall in any sense
5 the general dollar amount, whether it was
6 \$100,000, \$50,000?

7 A. It could be in the area of the
8 \$700,000.

9 Q. \$700,000.

10 A. Approximately, I'd say.

11 Q. For Sun Microsystems, are you able
12 to recall the approximate?

13 A. No. Not really.

14 Q. The \$700,000 investment you
15 referred to in Microsoft as well as your
16 investment in Sun Microsystems --

17 A. And different periods of time.

18 Q. When did you begin to invest in
19 Microsoft?

20 A. I cannot recall it exactly and I
21 don't want to guess.

22 Q. Do you recall the approximate
23 years?

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24 A. It could be 2004, 2003.
25 Q. For Sun Microsystems can you recall

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1 JOSEPH ANCHINOVSKI
2 the approximate years?

3 A. I cannot recall.

4 Q. Do you recall whether you held
5 those stocks at the same time as you held any
6 IBM stock?

7 A. Probably, yes.

8 Q. Can you recall at all how long the
9 overlap was in which you held both IBM and
10 Microsoft and/or Sun stock?

11 A. IBM, I start to buy it on December
12 2004. And at the end, the 20th of June it was
13 the last time I own IBM.

14 Q. Okay. Mr. Anchinovski, when you
15 make an investment decision, do you ever receive
16 any advice from anyone else?

17 A. No. I do it all on my own.

18 Q. Do you have a stockbroker?

19 A. No, I don't.

20 Q. Do you ever consult any friends on
21 investment decisions?

22 A. No.

23 Q. Does your wife play any role in
24 your investment decisions?

25 A. All she knows is what I tell my

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1 JOSEPH ANCHINOVSKI
2 wife. I do the transaction myself. And, by the
3 way, I want to say again my wife she doesn't
4 know about trading. And she knows whatever we
5 discuss and she is aware of the spending that I
6 do buying and selling only, the numbers.

7 Q. Is she aware because you update her
8 as to your trading activities?

9 A. Yes. We talk because I sit and,
10 you know, I make my phone calls while we are in
11 the house most of the time.

12 Q. And she is with you when you make
13 those phone calls?

14 A. She is in the kitchen or doing her
15 duties in the house.

16 Q. How often do you make the phone
17 calls to trade?

18 MR. PLASSE: I have an objection
19 to form. You can go ahead and answer the
20 question.

21 Q. Generally speaking, how often --
22 actually let me rephrase the question.

23 Generally speaking, as of the end
24 of 2004, in that time frame, how often do you
25 trade in stocks?

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1 JOSEPH ANCHINOVSKI

2 A. Every day.

3 Q. Is that once a day, twice a day or
4 more often than that?

5 A. It could be one time. It could be
6 three times. It could be five times.

7 Q. Would you say you're monitoring
8 various stocks throughout the day?

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9 A. Yes.
 10 MR. PLASSE: Objection to the
 11 form. You are still in the same time frame?
 12 MR. KIM: Still in the same time
 13 frame, end of 2004.
 14 A. Can you repeat the question.
 15 Q. Would you monitor stocks, the
 16 prices of the various stocks throughout the day?
 17 A. Yes, I do.
 18 Q. Do you have a ticker on your
 19 computer?
 20 A. No, I don't.
 21 Q. Do you currently monitor stocks
 22 every day?
 23 A. I do.
 24 Q. How do you monitor the stocks?
 25 A. Well, the TV, the radio. Sometimes

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1 JOSEPH ANCHINOVSKI
 2 I read the newspapers.
 3 Q. What sort of television programs do
 4 you watch?
 5 A. Right now CNN, Bloomberg TV,
 6 Channel 2 Eyewitness News, PBS, Nightly Business
 7 Report. And all the commentaries that they are
 8 around every half an hour and 1010 News.
 9 Q. Do the television programs to which
 10 you just referred ever inform your decisions
 11 regarding investments?
 12 A. Not at all.
 13 Q. So why do you watch the television
 14 programs?
 15 A. Why I watch, to be acquainted what
 16 are the news and if I hear something that could
 17 be, you know, news interesting to hear and to be
 18 acquainted, to have something to do in my life.
 19 Q. Does the news you hear ever
 20 influence or affect your investment decisions?
 21 MR. PLASSE: Objection to the
 22 form. Are you talking about presently?
 23 Q. Let's say any time between the end
 24 of 2004 and the current day.
 25 A. Yes, it could. Yes, affect my

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1 JOSEPH ANCHINOVSKI
 2 decision.
 3 Q. Would it be the case if you heard
 4 about a particular stock and particularly
 5 positive news, that that might influence you to
 6 buy stock?
 7 A. Certainly could be.
 8 Q. And is it the case if you heard
 9 about a particular company and you heard
 10 negative news, that that might influence you to
 11 sell that stock?
 12 A. Not really.
 13 Q. Why not?
 14 A. Because I wanted to see how we
 15 react the company and to wait for the news of
 16 some, you know, members of the company to come
 17 out and say what's going on.
 18 Q. I am going to ask you just another
 19 question about your wife's role, if any, in your

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20 investment decisions. Does Nilda Anchinovski
21 ever disagree with any decision regarding
22 investments you make?

23 A. No. She never, no. She just asks
24 questions of what I'm doing. And I answer her.
25 And doesn't influence me at all. I make my own

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1 JOSEPH ANCHINOVSKI

2 decisions for what I learned from the market.

3 Q. So she has never told you or even
4 suggested to you that you shouldn't make a
5 decision that you were contemplating?

6 A. No, from what I can recall.

7 Q. So, is it true she has no role with
8 respect to your investment decisions beyond
9 hearing what those decisions are and being
10 informed about them?

11 MR. PLASSE: I have an objection
12 to form, but you can go ahead and answer the
13 question. Do you want to have it read back
14 again so you can hear it? The court reporter
15 can read it back.

16 A. Yes. Please.

17 (The pending question was read.)

18 A. This is very correct, she doesn't
19 have no role on that.

20 Q. Has she ever expressed a desire to
21 have a greater role with respect to your
22 investment decisions?

23 A. We didn't discuss that, sorry.

24 Q. Mr. Anchinovski, generally how do
25 you decide whether to buy or sell a stock?

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1 JOSEPH ANCHINOVSKI

2 A. Well, I follow, you know, the
3 company and first of all, I tried to choose a
4 company that is conservative and does, you know,
5 the right things and they have growth and where,
6 you know, the prices they conservatively
7 maintain stability.

8 Q. What do you mean by conservative?

9 A. Conservative means that, you know,
10 they pay dividends and they fluctuate between
11 their range that it doesn't give you, you know,
12 any shock, if it is a way to explain.

13 Q. Would you say that Microsoft and
14 Sun Microsystems are conservative investments?

15 MR. PLASSE: Objection to form.
16 You can answer.

17 A. They are not too conservative.

18 Q. So, is it the case that although
19 investing in conservative stocks might be your
20 general practice, sometimes there are exceptions
21 to that?

22 MR. PLASSE: I was just trying to
23 get you to wait until he finishes the question.
24 You can answer.

25 A. Yeah. Well, I start to like a

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1 JOSEPH ANCHINOVSKI

2 company like IBM for a long time and I was
3 waiting for the opportunity to get involved in
4 something conservative. And this was the

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5 opportunity to start. And I did my homework to
6 start with IBM. That is the one I considered a
7 conservative company.

8 Q. But with respect to Sun
9 MicroSystems and Microsoft --

10 A. Yes. Yes.

11 Q. -- would those be examples of where
12 you did not follow your general practice of
13 investing in conservative stocks?

14 MR. PLASSE: Objection to the
15 form. You can answer.

16 A. Probably.

17 Q. Why probably as opposed to yes or
18 no?

19 A. Because, you know, I find that
20 those companies, they fluctuate more differently
21 than the conservative stock and I answer you
22 they are not conservative. But I did like at
23 the moment I purchased that company.

24 Q. You considered IBM to be a
25 conservative stock?

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1 JOSEPH ANCHINOVSKI

2 A. Very much so.

3 Q. Do you consider technology stocks
4 to be conservative stocks in general?

5 A. No. For what happened to them many
6 years ago.

7 Q. In your understanding is IBM a
8 technology stock?

9 A. It is a very, very important
10 technology company. I will say the most
11 important company in the world.

12 Q. The most important technology
13 company in the world?

14 A. Yes, sir.

15 Q. So, I am just trying to understand.
16 Is it your belief that technology companies are
17 generally not as stable as other companies, but
18 among technology companies, IBM is in your
19 opinion stable?

20 A. Superior.

21 MR. PLASSE: I have an objection
22 to form. You can answer.

23 A. Yes. They are superior. It is a
24 superior company to all the others.

25 Q. By superior you mean conservative

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1 JOSEPH ANCHINOVSKI

2 or stable or something else?

3 A. Stable.

4 Q. Have you ever received a tip or
5 recommendation from anyone with respect to
6 making a purchase or sale of a security?

7 A. Not that I recall.

8 Q. Mr. Anchinovski, what is the basis
9 of your belief that IBM is a conservative
10 company? Sorry let me strike that.

11 Mr. Anchinovski, what is the basis
12 of your belief that IBM stock is a conservative
13 investment?

14 A. I believe that IBM for many years
15 was always the price stable, you know, and it

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 16 wouldn't drop in a dramatic way. And it could
 17 be a company for the future of my family.
 18 Q. Do you recall whether IBM stock
 19 dropped in a dramatic way during the dot-com
 20 bust in 2000?
 21 A. No, I didn't follow the technology
 22 company in those years.
 23 Q. When did you begin to follow
 24 technology companies?
 25 A. After I retired.

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1 JOSEPH ANCHINOVSKI
 2 Q. That was in June of 2001?
 3 A. Yes, sir.
 4 Q. Do you recall whether IBM stock
 5 dropped --
 6 A. No, I cannot recall that.
 7 Q. -- after September 11 of 2001?
 8 A. No, I don't recall that.
 9 Q. Do you ever seek to diversify your
 10 holdings?
 11 A. Yes. Can you repeat the question.
 12 Q. Do you ever seek to diversify your
 13 investments?
 14 A. Can you put it in a different --
 15 the first word.
 16 Q. Diversify?
 17 A. No, diversify I understand. Can
 18 you see?
 19 Q. Do you diversify your investments?
 20 A. I try to do so.
 21 Q. How do you diversify your
 22 investments?
 23 A. Well, you know, I see some
 24 companies that they are in different fields.
 25 And I do that by looking for different fields.

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1 JOSEPH ANCHINOVSKI
 2 Q. Besides your investments in the
 3 technology industries of which you named three,
 4 Sun Microsystems, Microsoft and IBM --
 5 A. Yes.
 6 Q. -- in what other fields do you have
 7 investments?
 8 A. Pharmaceutical, Pfizer, Merck.
 9 Q. Do you currently own Pfizer stock?
 10 A. No.
 11 Q. Do you recall the approximate years
 12 in which you owned Pfizer stock?
 13 A. Can I return a little bit, I would
 14 like to mention Verizon Telecommunications.
 15 Q. As to Pfizer, do you recall the
 16 approximate years in which you held Pfizer
 17 stock?
 18 A. 2004. Let's go back, 2005, 2006.
 19 Not 2004. I cannot recall now 2004.
 20 2005 and 2006.
 21 Q. Do you recall whether you began to
 22 own Pfizer stock in the second half of 2005 or
 23 in the first half of 2005?
 24 A. I recall in the beginning of 2005.
 25 Q. So, is it the case that you were

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JOSEPH ANCHINOVSKI

owning Pfizer stock at the same time that you were owning Microsoft stock? Sorry, let me rephrase that.

So is it the case you were owning Pfizer stock at the same time that you were owning IBM stock?

A. It is very possible.

Q. Do you recall the approximate years in which you owned Merck stock?

A. 2003, 2004, 2005.

Q. Do you currently own any Merck stock?

A. No, not at all.

Q. So you sold all of your investments in Merck stock in 2005?

A. I will say -- I cannot recall it.

Q. Do you recall the approximate years in which you owned Verizon Telecommunications stock?

A. 2006, 2005.

Q. For Pfizer, Merck and Verizon, I notice that you mentioned that you owned the stock for those three companies in 2005.

A. Yes.

0031

JOSEPH ANCHINOVSKI

Q. So is it the case you owned Pfizer, Merck and Verizon and IBM at some point in time simultaneously?

A. I cannot recall it.

Q. Do you recall for Pfizer, Merck and Verizon the approximate dollar amount of your investment?

MR. PLASSE: Objection to form. At a certain time?

Q. Sure. With respect to Pfizer, Merck and Verizon, do you recall the approximate dollar amount of your investment in each of the three in the first half of 2005?

A. I cannot recall the dollar amount.

Q. Do you recall whether they were greater or less than your investment in IBM in the first half of 2005?

A. I cannot recall it.

Q. As to those three stocks, Pfizer, Merck and Verizon, were you trading in them frequently, day-to-day, week to week; or were you buying and holding them?

MR. PLASSE: Objection to form. You may answer.

0032

JOSEPH ANCHINOVSKI

A. Repeat the question.

Q. As to Pfizer, Merck and Verizon, how often were you trading in those securities?

MR. PLASSE: Objection to the form. You may answer.

A. I was active.

Q. How active?

A. Normally active.

Q. On average can you state in the first half of 2005 how often you traded in each

112906anchinovski
 12 of the three stocks, Pfizer, Merck and Verizon?
 13 A. Several times.
 14 Q. Were you more active in those three
 15 stocks than you were in trading IBM stock in the
 16 first half of 2005?
 17 A. I cannot recall the dates.
 18 Q. Do you ever make short-term
 19 investments?
 20 A. No. The question is in which time
 21 frame?
 22 Q. I think you stated that you trade
 23 quite frequently.
 24 A. Yes. But from which year to which
 25 year?

0033

1 JOSEPH ANCHINOVSKI
 2 Q. In 2005.
 3 A. No, I didn't. The question was if
 4 I trade short?
 5 Q. Let's strike that question.
 6 Have you ever employed short
 7 selling of stock?
 8 A. In what time frame?
 9 Q. In 2005.
 10 A. No, sir.
 11 Q. Do you know what short selling of
 12 stock is?
 13 A. I believe I do.
 14 Q. What is your understanding of short
 15 selling?
 16 A. Just playing reverse the market.
 17 Q. Would you ever say that you employ
 18 momentum trading?
 19 A. I don't know the term.
 20 Q. Do you believe that the price of a
 21 stock ever has momentum going up or down?
 22 A. I don't look at those things.
 23 Q. Do you ever purchase high risk
 24 securities?
 25 A. I don't understand the term when

0034

1 JOSEPH ANCHINOVSKI
 2 you say high risk.
 3 Q. Do you have an understanding as to
 4 what a high risk security would be?
 5 A. Not at this moment.
 6 Q. Do you have any discretionary --
 7 actually strike that question.
 8 Do you have any accounts in which a
 9 broker or another individual can make trades
 10 without your preapproval?
 11 A. No, sir.

12 (Defendant's Exhibit 8 for
 13 identification, Citicorp Investment Services
 14 Confirmations, production numbers A 017 through
 15 171.)

16 MR. KIM: Just to be clear on the
 17 record, we are starting with Exhibit Number 8.
 18 I am marking Exhibit 8 and Exhibit 9.

19 (Defendant's Exhibit 9 for
 20 identification, Citicorp Investment Services
 21 Confirmations, production numbers A 001 through
 22 180.)

112906anchinovski .

23 MR. KIM: I have marked as
24 Exhibit 8 and Exhibit 9 documents produced by
25 plaintiffs. I have divided the documents

0035

1 JOSEPH ANCHINOVSKI
2 between documents indicating that they are
3 margin account and the documents indicating that
4 they are cash account. And I have arranged them
5 chronologically by trade date.

6 A. Okay.

7 Q. Mr. Anchinovski, if you don't mind
8 flipping through the two exhibits I just put
9 before you. When you are done with that, if you
10 can tell me what these represent, that will be
11 great.

12 A. Okay.

13 Q. Just take a moment to flip through
14 them.

15 A. Okay. You have a blank here.

16 Q. Yes, a blank? I don't see a blank
17 page.

18 A. Nothing there. This is the front,
19 you have the back.

20 Q. Okay. Are you saying that we don't
21 have the back page?

22 A. You don't have any trade there. I
23 don't know for what reason.

24 Q. Any trades indicated on the last
25 page?

0036

1 JOSEPH ANCHINOVSKI

2 A. Right.

3 Q. I am actually going to make a
4 statement on the record regarding that. It
5 appears that the documents produced by
6 plaintiffs were redacted. We were informed
7 yesterday in a conversation with opposing
8 counsel that they were redacted.

9 These were produced on the 22nd and
10 a small batch thereafter produced on the 27th of
11 November. I called opposing counsel to inquire
12 about what appeared to be blank spaces on these
13 sheets. Opposing counsel stated to me that the
14 sheets were redacted. That the account numbers
15 and certain information relating to trades in
16 other securities besides IBM were redacted. The
17 sheets do not bear any indication such as a
18 stamp indicating what and where the redactions
19 are.

20 I don't believe there is any basis
21 to redact that information. I believe it is
22 relevant to class certification. We reserve our
23 right to object to that. We will challenge it
24 in the future.

25 Q. Mr. Anchinovski, could you tell me

0037

1 JOSEPH ANCHINOVSKI

2 what Exhibits 8 and 9 represent?

3 A. These are the photocopies that I
4 was requested to present to give, you know, to
5 you people on the situation, the defendants.

6 Q. And you were requested to present
7 them by your attorneys?

112906anchinovski

8 A. That's correct. Thank you.
 9 Q. Mr. Anchinovski, is there a
 10 difference between, if you look on Exhibit
 11 Number 8 --
 12 A. Yes.
 13 Q. -- it states margin account.
 14 A. Yes.
 15 Q. If you look at Exhibit Number 9 it
 16 states cash account.
 17 A. Right.
 18 Q. Are those two separate accounts?
 19 A. No. It is the same account.
 20 Q. On your statements -- do you
 21 receive monthly statements from Citicorp
 22 Investment Services?
 23 A. Yes, I do.
 24 Q. On those monthly statements are the
 25 margin account information listed separately

0038

1 JOSEPH ANCHINOVSKI
 2 from the cash account statements?
 3 A. I don't recall it, honestly.
 4 Q. How do you decide whether to make a
 5 trade in the margin account versus the cash
 6 account?
 7 A. Well, I have just one account and
 8 it is a linkage account to my brokerage account.
 9 And when I make a trade after the three days
 10 that it takes for the trade, if it is my money
 11 there, they will pull it up. When I make a
 12 trade they will ask me if I want to do it on
 13 cash or I want to do it on the margin account.
 14 So meaning that the stock that I
 15 buy and I sell you can see it on the cash
 16 account or could see it on my margin account,
 17 whatever I decide, you know, on the moment that
 18 I do the trade.
 19 Q. How do you decide whether to trade
 20 on margin or cash?
 21 A. Well, when I do have the money
 22 available on cash I will transport the money to
 23 my margin and you will see there until some
 24 stocks are being purchased. And if I, you know,
 25 go over the amount, it becomes, you know, like a

0039

1 JOSEPH ANCHINOVSKI
 2 debt on the balance.
 3 Q. Mr. Anchinovski, do you have an
 4 understanding of what it means to trade on
 5 margin?
 6 A. Yes, I do.
 7 Q. Can you explain what that
 8 understanding is.
 9 A. Well, my understanding is that if
 10 you want to borrow some money to purchase with
 11 the collateral, you know, you get that situation
 12 that you borrow money.
 13 Q. You mentioned that you would have
 14 collateral on the borrowing. What would the
 15 collateral be?
 16 A. The collateral, whatever I own on
 17 stocks, you know, it will be the collateral to
 18 the debt.

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 19 Q. So in your understanding the
 20 collateral would be the stock you purchase from
 21 the money you borrow?
 22 A. Can you repeat.
 23 Q. When you trade on margin is it your
 24 understanding that you borrow money from
 25 Citicorp Investment Services to purchase a

0040

1 JOSEPH ANCHINOVSKI
 2 particular stock?
 3 A. Not necessarily on my margin
 4 account because my margin account sometimes it
 5 could have excessive money and I don't know and
 6 I don't need to borrow. But this stays there.
 7 Q. But in cases in which you do borrow
 8 money, the collateral would be the particular
 9 stock you purchased with the borrowed money?
 10 A. Particular stock, no. Whatever I
 11 own is sitting there as collateral.
 12 Q. I see, so if you borrow money and
 13 purchase on margin and you buy stock in, for
 14 example Google, the collateral could be Google
 15 or any other stock you currently own at that
 16 time; is that correct?
 17 A. I imagine, yes.
 18 Q. How often do you trade on margin
 19 versus cash?
 20 A. I can not recall now. In what time
 21 frame are you talking about now?
 22 Q. Currently.
 23 A. Currently. I don't. I buy in
 24 cash.
 25 Q. Currently you buy exclusively in

0041

1 JOSEPH ANCHINOVSKI
 2 cash?
 3 A. Yes, sir.
 4 Q. When was the last time you traded
 5 on margin?
 6 A. I cannot recall exactly, but it is
 7 in the year 2005.
 8 Q. Do you recall whether that was at
 9 the end of the year, in the middle of the year
 10 or beginning of the year?
 11 A. At this time I cannot recall it.
 12 Q. Can you state or explain to me the
 13 reason you stopped trading on margin at some
 14 point in 2005?
 15 A. Actually I didn't need to do it
 16 because I sold out at the end of the year, you
 17 know, most of my how I will say, investments and
 18 I only kept, you know, one stock.
 19 Q. At the end of which year?
 20 A. The year 2005.
 21 Q. So after 2005 all of your
 22 investments are in one stock; is that correct?
 23 A. It is a very small proportion of my
 24 capital.
 25 Q. What proportion is that?

0042

1 JOSEPH ANCHINOVSKI
 2 A. I will say 25 percent invested.
 3 Q. Could you name the stock for me?

112906anchinovski

4 A. Verizon.
 5 Q. So between, at some point in the
 6 end -- sorry, strike that.
 7 Between 2005 at some point and the
 8 current day you sold all of your investments in
 9 any other stock and between that point and the
 10 current day they are all in Verizon stock; is
 11 that correct?
 12 A. One stock, yes.
 13 Q. That is 20 percent -- 25 percent of
 14 your current --
 15 A. Yes.
 16 Q. -- total assets?
 17 A. On the security, yes.
 18 Q. 25 percent of your total securities
 19 holdings?
 20 A. Yes.
 21 Q. Besides the Verizon, what other
 22 securities do you own?
 23 A. EMC.
 24 Q. Anything else?
 25 A. No.

0043

1 JOSEPH ANCHINOVSKI
 2 Q. When did you start owning EMC
 3 stock?
 4 A. About a week ago.
 5 Q. But between the point in 2005 when
 6 you sold all of your other stocks and put all of
 7 that money into Verizon to a week ago was
 8 Verizon the only stock that you held?
 9 MR. PLASSE: Objection to form,
 10 but you may answer.
 11 A. You have to repeat the question
 12 please.
 13 Q. You stated earlier you sold all
 14 your other investments.
 15 A. The year 2005.
 16 Q. You put all that money into
 17 Verizon?
 18 A. I left Verizon as the only
 19 investment.
 20 Q. And that situation lasted until a
 21 week ago?
 22 A. And that situation lasted until
 23 several months ago.
 24 Q. Can you explain to me why you
 25 decided to get out of all of the other stocks in

0044

1 JOSEPH ANCHINOVSKI
 2 2005?
 3 A. I was afraid to lose more money.
 4 Q. And these other stocks, would that
 5 have included Sun Microsystems, Microsoft, and
 6 IBM?
 7 A. Sun Microsystems it was the case in
 8 the year 2005 or 2004, I cannot recall it
 9 exactly. Because you asked me what kind of
 10 technology I owned. It is the one I recall.
 11 But I cannot recall now if it was 2004 or 2005.
 12 Q. Do you believe that EMC is a
 13 conservative stock?
 14 A. No.

112906anchinovski
 15 Q. Do you think that EMC is a risky
 16 stock?
 17 A. No.
 18 Q. Is it somewhere in between?
 19 A. It is.
 20 Q. Is it more risky than IBM stock?
 21 A. Probably, yes. Much more.
 22 Q. Can you explain why you chose to
 23 invest in EMC stock?
 24 A. Because the price is very
 25 compatible and it is very, you know, the price

0045

1 JOSEPH ANCHINOVSKI
 2 is accessible and I didn't invest much in it. I
 3 invest part of it to give it to my
 4 grandchildren.
 5 Q. Can you tell me the approximate
 6 dollar amounts you have invested in EMC stock?
 7 A. About \$25,000, approximately.
 8 Q. Can you state the approximate
 9 dollar amount you currently have invested in
 10 Verizon stock?
 11 A. About \$100,000.
 12 Q. Just a moment ago you stated that
 13 you purchased EMC stock because the price is
 14 very compatible; what did you mean by
 15 compatible?
 16 A. Compatible means that the price
 17 that, you know, it is a low price and the risk,
 18 you know, is not great because it doesn't
 19 fluctuate, you know, in a jumpy way.
 20 Q. What do you mean by the price was
 21 low?
 22 A. It is, you know, a price that is in
 23 the teens. And, you know, there is not much of
 24 losing, you know, any money on that because I am
 25 planning to sit in there for the long-term.

0046

1 JOSEPH ANCHINOVSKI
 2 Q. So you consider EMC stock as of
 3 right now to be a long-term investment for you;
 4 is that correct?
 5 A. Probably.
 6 Q. When you stated that the price was
 7 low, does that mean you believe the price was
 8 undervalued?
 9 A. No.
 10 Q. What is the difference between the
 11 price being low and the stock being undervalued?
 12 A. Well, it is stock that doesn't
 13 jump, you know, very quick or doesn't go down
 14 very quick, you know, it is something you can
 15 handle.
 16 MR. KIM: Why don't we take a
 17 break at this point before we dive into the two
 18 exhibits.
 19 A. Okay. How long will be the break?
 20 Q. How long do you need; ten minutes,
 21 five minutes?
 22 A. I did my duties already.
 23 MR. KIM: Let's go off the record.
 24 VIDEOGRAPHER: Going off the record
 25 at 11:45.

112906anchinovski

0047

1 JOSEPH ANCHINOVSKI
2 (Recess taken.)
3 VIDEOGRAPHER: Returning to the
4 record at 12:14 from 11:45.
5 Q. Mr. Anchinovski, I would like to
6 make sure that I know how to read the trade
7 confirmations that you have before you.
8 A. Yes, sir.
9 Q. So if we can walk through one of
10 them.
11 A. Yes, sir.
12 Q. That would be great. Take a look
13 at the first page of Exhibit 8 --
14 A. Yes, sir.
15 Q. -- in front of you. Do you see
16 your name?
17 A. Yes, sir.
18 Q. Under that your wife's name?
19 A. Correct, joint account.
20 Q. Is that what JTWR0S indicates?
21 A. Joint account.
22 Q. Do you know what that stands for?
23 A. We own both of it.
24 Q. To the right of your name do you
25 see the number 928?

0048

1 JOSEPH ANCHINOVSKI
2 A. Yes.
3 Q. Can you tell me what that
4 indicates?
5 A. No idea.
6 Q. At the top of the trade
7 confirmation it states account number. Can you
8 tell me why there doesn't appear to be any
9 number after that?
10 MR. PLASSE: Well, I will say our
11 firm redacted that information just to
12 supplement or respond to what you were referring
13 to before, we will provide you another set of
14 documents where there will be indications of
15 where there is redacted information. I do
16 understand I believe that Mrs. Thompson wrote a
17 letter to your firm which generally identified
18 the information that was redacted. But we will
19 provide you another set of documents which
20 specifically indicates where we have redacted
21 information. Sorry I intervened, but feel free
22 to ask the question again to the witness.
23 Q. Sure. On these trade confirmations
24 would there typically be a number after the
25 account number?

0049

1 JOSEPH ANCHINOVSKI
2 A. Confirmation, yes.
3 Q. Sorry, after the words account
4 number, would there typically be an actual
5 number after that?
6 A. Yes.
7 Q. At the bottom if you see blank
8 spaces there would those typically be
9 information relating to other transactions?
10 A. Yes, sir.

112906anchinovski
 11 Q. That would be transaction in other
 12 stocks?
 13 A. Yes, sir.
 14 Q. If you look after the first line it
 15 specifically states you bought 1,000 at a price
 16 of 96.88.
 17 A. Yes, sir.
 18 Q. I take it the 1,000 is the quantity
 19 of shares?
 20 A. Yes, sir.
 21 Q. And 96.88 is the price per share?
 22 A. Yes, sir.
 23 Q. If you look slightly below that it
 24 says trade date 12/8/2004?
 25 A. Yes, sir.

0050

1 JOSEPH ANCHINOVSKI
 2 Q. I take it that is the date on which
 3 you purchased the shares?
 4 A. Yes, sir.
 5 Q. We see slightly to the right the
 6 words "margin account." That is the type of
 7 account?
 8 A. Yes, sir.
 9 Q. On the right of this page it
 10 indicates gross amount \$96,880.
 11 A. Yes, sir.
 12 Q. What is that number?
 13 A. It is the total amount including
 14 the commission that I pay for the transaction.
 15 Q. The total amount would be actually
 16 the number next to the word amount; is that
 17 correct?
 18 A. Yes, sir.
 19 Q. The \$96,904.95.
 20 A. Yes, sir.
 21 Q. That is simply the addition of the
 22 gross amount and the commission; correct?
 23 A. Yes, sir.
 24 Q. Mr. Anchinovski, do Exhibits 8 and
 25 9 represent all of the trades in IBM securities

0051

1 JOSEPH ANCHINOVSKI
 2 you have ever made?
 3 A. Yes. Yes, sir.
 4 Q. Do you have any other accounts
 5 beside --
 6 A. Excuse me. In which time frame are
 7 you talking about?
 8 Q. From -- ever.
 9 A. Ever? It is possible that maybe 15
 10 years ago or 20 years ago I purchased some
 11 stock. I don't recall it now.
 12 Q. It is possible that you may have
 13 purchased some stock in IBM?
 14 A. Yes, sir.
 15 Q. Do you recall in what account that
 16 was?
 17 MR. PLASSE: Objection to the
 18 form. You may answer.
 19 A. Can I answer?
 20 MR. PLASSE: You can answer, yes.
 21 A. It is not the same account.

112906anchinovski

22 Q. I see. Thank you.
23 A. I mean in the same -- 20 years ago,
24 probably it was a different kind of account.
25 Yes.

0052

1 JOSEPH ANCHINOVSKI
2 Q. Do you currently have any
3 retirement accounts?
4 A. No, sir.
5 Q. Do you have any other accounts
6 besides the Citicorp Investment Services account
7 since the year 2000 in which you traded any
8 investment, any securities in IBM?
9 A. From the year?
10 Q. Sorry, strike that. Since the year
11 2000 do you have any other accounts in which you
12 made any trades in IBM stock?
13 A. No, sir.
14 Q. Is this all since 2000?
15 A. Yes, sir. IBM.
16 Q. Do Exhibits 8 and 9 -- sorry,
17 strike that. Are Exhibits 8 and 9 true and
18 correct copies of the trade confirmations of all
19 of the IBM stock trades you have made?
20 A. Yes, sir.
21 MR. PLASSE: I have an objection
22 to form.
23 Q. Are Exhibits 8 and 9, but for the
24 whited-out numbers, true and correct copies of
25

0053

1 JOSEPH ANCHINOVSKI
2 trade confirmations of all the transactions in
3 IBM securities that you have made since 2000?
4 MR. PLASSE: You have to answer
5 the question unless you don't understand it.
6 A. No. No. I can answer that. Okay.
7 Please repeat the question again.
8 Q. Are Exhibits 8 and 9, except for
9 the whited-out numbers and information true and
10 correct copies of trade confirmations of all of
11 the transactions in IBM securities that you have
12 made since 2000?
13 A. All these confirmations that carry
14 my last name and my wife's last name, those are
15 true confirmations. They are exactly the ones
16 that photocopied.
17 Q. If you could turn to Exhibit 8, the
18 first page, actually just stay on that page.
19 A. Yes.
20 Q. Was the first purchase in IBM stock
21 made by you on December 8th, 2004?
22 A. Yes, sir.
23 Q. What made you decide that you
24 wanted to buy IBM stock at that point in time?
25 A. I start to like, you know, the

0054

1 JOSEPH ANCHINOVSKI
2 company. And I considered that the price that
3 always, you know, it kept, it was considered,
4 you know, a stable company.
5 Q. Did you believe that IBM met your
6 investment goals at that time?

112906anchinovski
 7 MR. PLASSE: Objection to the
 8 form. You may answer.
 9 A. I really don't understand your
 10 question.
 11 Q. Let me rephrase it. What was it
 12 you used to reach the conclusion that IBM met
 13 your investment goals at that time?
 14 MR. PLASSE: I still object to
 15 form. You may answer.
 16 A. I just happened to like the
 17 company.
 18 Q. Prior to deciding to make your
 19 first investment in IBM on December 8, 2004 did
 20 you speak to anybody about IBM stock?
 21 A. No, sir.
 22 Q. Did you conduct any investigation
 23 before making that investment?
 24 MR. PLASSE: Objection to the
 25 form. You may answer go ahead.

0055

JOSEPH ANCHINOVSKI
 1 A. Yes. what usually I do, I check
 2 the way it is performing, if it is an acceptable
 3 way that I consider it is doing okay and it will
 4 maintain the price and pay the dividend, I will
 5 do it.
 6 Q. Before making your first investment
 7 on December 8, 2004 in IBM stock, did you
 8 monitor the price of IBM stock?
 9 A. I will consider it, yes.
 10 Q. How long were you monitoring the
 11 price before making that first investment?
 12 A. For years I was looking at it, at
 13 IBM always.
 14 Q. When you made your first investment
 15 did you consider the price of IBM stock to be
 16 cheap?
 17 A. I would consider it was between the
 18 way it was fluctuating, you know.
 19 Q. Do you recall that soon after you
 20 made that first purchase in IBM stock that you
 21 then sold all of those shares?
 22 A. Put it differently, please.
 23 Q. It appears, actually you stated on
 24 December 8, 2004, that was your first investment

0056

JOSEPH ANCHINOVSKI
 1 in IBM stock?
 2 A. Yes.
 3 Q. Do you recall selling those shares
 4 shortly thereafter?
 5 A. Yes, I did.
 6 Q. If you can turn a couple pages into
 7 Exhibit 8, please.
 8 Earlier you stated you considered
 9 it was between the way it was fluctuating. Can
 10 you explain what you mean by the way it is
 11 fluctuating?
 12 A. Well, it is a frame where it will
 13 not be much volatility, you know, I will
 14 consider to go into that.
 15 Q. Do you have a view as to why the
 16 price would fluctuate?
 17

112906anchinovski

18 A. I imagine that is the way the
19 market is working.

20 Q. If you were following the price
21 fluctuations in IBM stock as you stated for
22 years, what made you decide to invest on
23 December 8th, 2004?

24 MR. PLASSE: Objection to the
25 form. You may answer.

0057

1 JOSEPH ANCHINOVSKI

2 A. I have the funds available to do
3 so.

4 Q. Prior to that you didn't have the
5 fund available to do so?

6 A. I concentrate on something
7 different.

8 Q. Could you explain what you meant by
9 I imagine that is the way the market is working?

10 A. It goes up and it goes down, you
11 know. All depends on the news, they are
12 available in the market, depends what IBM would
13 say or the analyst, you know, talking on
14 different way or writing to different
15 newspapers.

16 Q. Do you have an understanding as to
17 what, if anything, causes price of IBM stock to
18 fluctuate?

19 A. I am talking about the market, not
20 on a specific stock.

21 Q. If you can turn -- okay, actually
22 you're there now. It appears that you sold
23 1,000 shares on December 9th, 2004.

24 A. Yes, I did.

25 Q. Can you tell me why you sold or

0058

1 JOSEPH ANCHINOVSKI

2 decided to sell those 1,000 shares?

3 A. I have a small profit that I was
4 tempted, you know, just to take it.

5 Q. Do you often sell when the price of
6 a stock you own goes up slightly in price?

7 MR. PLASSE: Objection to the
8 form. You may answer. You can answer.

9 A. Again, please.

10 Q. Do you often sell stocks when the
11 price goes up slightly?

12 A. Yes, sir, I do.

13 Q. That would be taking a profit?

14 A. Yes, sir, I do.

15 Q. Can you explain why you decide to
16 take a profit?

17 MR. PLASSE: Objection to the
18 form. You may answer it.

19 A. Looking to buy at the possible
20 better price later on.

21 Q. I am trying to understand what do
22 you mean by better price?

23 A. If it fluctuates slightly lower, I
24 will buy that.

25 Q. Please turn to the next, two pages

0059

1 JOSEPH ANCHINOVSKI

2 later, sorry, actually in Exhibit 9, the first

112906anchinovski
 3 page of Exhibit 9. Does that indicate that you
 4 bought 1,055 shares of IBM stock at \$94.65 per
 5 share on January 12, 2005?
 6 A. Yes.
 7 Q. What made you decide to buy these
 8 shares on January 12, 2005?
 9 A. Because it did fluctuate a little
 10 lower than the price I sold at previously.
 11 Q. If you turn two pages later on
 12 Exhibit 9 it appears you sold 435 shares at a
 13 price of 94.31.
 14 A. Two pages down?
 15 Q. Yes.
 16 A. It is chronologically good to put
 17 every one of the pages because you have a
 18 purchase before the sale.
 19 Q. These are ordered chronologically?
 20 A. So how come you are not calling the
 21 purchase first? That was 114.
 22 Q. Yes, it appears --
 23 A. The other one was 208, the purchase
 24 was done before, so actually it was
 25 accumulating.

0060

1 JOSEPH ANCHINOVSKI
 2 Q. Yes. Go to the next page.
 3 A. Yes, sir.
 4 Q. It appears on January 14, 2005 --
 5 A. Yes.
 6 Q. -- you purchased 570 shares.
 7 A. Yes.
 8 Q. At 93.79 per share; is that
 9 correct?
 10 A. This is correct.
 11 Q. Can you explain to me why you
 12 decided to make these two purchases?
 13 A. Well, I explained the first one
 14 because it was the price slightly lower than the
 15 previous sale and the previous purchase. And
 16 then again it dipped lower a little bit more and
 17 I purchased a few more at 93.79.
 18 Q. Do you know why the price
 19 fluctuates between a higher point and a lower
 20 point?
 21 A. No, sir. I don't know what you
 22 mean.
 23 Q. Do you know why the price
 24 fluctuated here as to these two trades?
 25 A. I couldn't say. I couldn't say it

0061

1 JOSEPH ANCHINOVSKI
 2 specifically why it came down. It is not much
 3 of a differential there.
 4 Q. If you turn to the next page.
 5 A. Yes, sir.
 6 Q. What does that indicate?
 7 A. Indicates this is a sale situation
 8 here.
 9 Q. Of 435 shares?
 10 A. Yes, sir.
 11 Q. On February 8, 2005?
 12 A. Yes, it is about --
 13 MR. PLASSE: I am not sure that is

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14 the right date.

15 MR. KIM: February 8, 2005.

16 A. It is about 25 days after, more or
17 less.

18 MR. KIM: Excuse me, why don't you
19 believe that is the right date?

20 MR. PLASSE: I am sorry for
21 intervening, my point what you picked up on, I
22 thought the document A 178 reflects a trade date
23 of February 8, not February 5th. I thought you
24 were referring to February 5th. Proceed. I was
25 just making an attempt to clarify the record.

0062

1 JOSEPH ANCHINOVSKI

2 MR. KIM: Sure.

3 Q. Why did you decide to sell 435
4 shares?

5 A. I made a profit on that and I sold
6 only partially those, of my holdings.

7 Q. Was it the case the price went up
8 slightly and therefore you decided to sell some
9 of your shares to take a profit?

10 A. It seems this is the first thing to
11 say.

12 Q. Please turn to the next page.

13 A. Yes, sir.

14 Q. Is it true that on February 9th,
15 2005 you purchased 420 shares of IBM stock at
16 92.76 per share?

17 A. Yes. That's correct.

18 Q. That was the day after you made the
19 sale of 435 shares.

20 A. Right.

21 Q. Can you explain why you decided to
22 buy 420 shares one day after selling 435 shares?

23 A. Because it dropped a little bit
24 after I sold it at the higher price. And I
25 purchased at the lower price just almost equal

0063

1 JOSEPH ANCHINOVSKI

2 to the amount of shares that I sold before.

3 Q. So, during this period from the
4 first investment to February 9th, you were
5 continuing to monitor the price of IBM stock?

6 A. I just was averaging my cost on
7 every one of the situations, averaging down the
8 cost of the stock as much as possible to later
9 on accumulate the most I can.

10 Q. If you turn to the next --

11 A. At the lower price.

12 Q. Please turn to the next page.

13 A. Yes, sir.

14 Q. Is it true on February 16, 2005 you
15 sold 610 shares of IBM stock at \$94.63 per
16 share?

17 A. Yes, yes, I can see it here, sir.

18 Q. Why did you decide to sell 610
19 shares on that date?

20 A. Because the price, it went higher
21 than the previous time that I purchased it at
22 the lower price.

23 Q. If you turn to the following page
24 you sold 1,000 shares at \$94.26 per share on

112906anchinovski

25 February 17, 2005; is that correct?

0064

1 JOSEPH ANCHINOVSKI

2 A. Yes. Because it still kept, you
3 know, to a price that it seems that was higher
4 than the previous purchase.

5 Q. Do you have any understanding as to
6 why, with respect to these two transactions on
7 February 16 and February 17th, 2005 the price
8 went up?

9 A. It was fluctuating, the price
10 didn't go up, you know, too much. You know, it
11 is a regular way the stock fluctuates between a
12 certain range.

13 Q. In your understanding do you think
14 the price of a stock is related to the true
15 value of a company?

16 A. I believe so.

17 Q. Do you think that the price of a
18 stock can differ from the true value of the
19 company?

20 A. It could differ, yes.

21 Q. Do you think that when the price
22 fluctuates up and down, up and down, that the
23 fluctuations are differences between the price
24 and the true value of the company?

25 A. If the differential is not much, it

0065

1 JOSEPH ANCHINOVSKI

2 is a trading pattern.

3 Q. But in your understanding the true
4 value of the company can remain the same, but
5 the price of that stock can fluctuate up and
6 down?

7 A. It's possible that's the case.

8 Q. What do you mean by a trading
9 pattern?

10 A. It goes up and down, up and down,
11 you know, until certain, you know, range that
12 doesn't interfere much, a dollar or \$2.

13 Q. In your understanding are the price
14 fluctuations random?

15 A. What do you mean about that, excuse
16 me?

17 Q. Are they caused by anything in
18 particular, to your understanding?

19 A. Sometimes it could be that the
20 market itself, it went down. And by being one
21 of the components of the industrials, you know,
22 it is part of that that people they buy and they
23 sell, probably companies that they buy and sell
24 on large amounts.

25 Q. Turn to the following page of

0066

1 JOSEPH ANCHINOVSKI

2 Exhibit 9, please. It appears that you sold --
3 sorry, it appears that you bought a total of
4 2,161 shares of IBM stock on February 25th,
5 2005; is that correct?

6 A. This is correct.

7 Q. What made you decide to buy 2,161
8 shares on that date?

9 A. The same pattern, you know, it just

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10 fluctuates a little bit down and below the
11 prices I sold at.
12 Q. I notice on this particular trade
13 confirmation that we have a total number of
14 shares and underneath that we have two
15 subtotals, 1,081 and 1,080.
16 A. Yes.
17 Q. Is it true you --
18 A. Two different trades.
19 Q. They are actually two different
20 trades?
21 A. Two different trades.
22 Q. So when you actually trade you
23 execute an order for 1,081 shares?
24 A. Right.
25 Q. Followed by a separate order for

0067

JOSEPH ANCHINOVSKI

1 1,080 shares?
2 A. This is correct.
3 Q. The prices next to those are the
4 prices at which you decide to make those trades.
5 The 92.48, that is the price at which you sold
6 the 1,081 shares?
7 A. Yes, this is correct.
8 MR. PLASSE: Objection. He bought
9 it. Not sold it.
10 Q. Bought it.
11 A. I purchased. Yes.
12 Q. Why did you decide to do two IBM
13 trades this day?
14 A. Because the price was stable and
15 the differential I pay between one and the
16 other, you know, it was convenient for me to buy
17 it at the moment.
18 Q. Did you make the trade for the
19 1,081 shares before the trade for the 1,080
20 shares?
21 A. Actually I cannot tell the way they
22 put it on paper.
23 Q. If you can turn to two pages later,
24 please. It appears that you bought 1,076 shares
25

0068

JOSEPH ANCHINOVSKI

1 at \$92.57 per share --
2 A. Correct.
3 Q. -- on February 28th, 2005.
4 A. Yes.
5 Q. Turning two pages after that it
6 appears that you sold 1,070 shares at a price of
7 \$93.34 per share.
8 A. That's correct.
9 Q. On March 1, 2005.
10 A. Yes.
11 Q. The following day.
12 A. Yes.
13 Q. Can you explain to me what made you
14 decide to buy 1,076 shares and the very next day
15 sell 1,070 shares?
16 A. Because it was a differential that
17 was favorable to do the trade.
18 Q. When you say --
19 A. Differential of price that I could
20

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21 sell, you know, higher when I bought it, when it
22 was a little lower.

23 Q. When you say there was a
24 differential in price, do you believe that the
25 price is ever misvaluing the security?

0069

1 JOSEPH ANCHINOVSKI

2 A. No. Nothing to do with it.
3 Fluctuation of the market. That was the range
4 that kept, you know, for several weeks and it
5 kept very stable company.

6 Q. If you turn a couple pages further.
7 In fact if you look at the next four trade
8 confirmations, which takes us to the end of this
9 exhibit, it appears that on March 2, 2005 you
10 bought 1,075 shares. On March 3, 2005 you
11 bought 1,080 shares. Then on March 3rd, 2005,
12 you bought a further 1,080 shares. And then on
13 March 4th, 2005 you bought 563 shares of IBM
14 stock.

15 A. Yes.

16 Q. Is this correct?

17 A. This is correct.

18 Q. Why did you decide to buy these
19 shares of stock in early March?

20 A. I was accumulating stocks on IBM
21 because I like the way, you know, it maintains
22 his level of prices. And I kept buying almost
23 at the same price that I did before.

24 Q. Turn to Exhibit 8, please. Turn to
25 the fifth page of Exhibit 8, please. On the

0070

1 JOSEPH ANCHINOVSKI

2 lower right of the page you will see the number.

3 A. Number 5.

4 Q. The Bates number A 015.

5 A. A 015.

6 Q. It appears from this trade
7 confirmation that you sold 965 shares at \$90.71
8 per share on March 29th, 2005; is that correct?

9 A. Yes.

10 Q. Can you state why you sold these
11 shares on that date?

12 A. I was trying to balance, you know,
13 my portfolio and I decide, you know, to make
14 this sale.

15 Q. Here I notice that the price
16 decreased slightly from the purchases you had
17 made in the days before.

18 A. Yes. I thought probably I have, by
19 the time that I did that, enough for the moment.

20 Q. Did you take a loss on this sale of
21 IBM shares?

22 A. I have to check on that, please.
23 Yes, I did.

24 Q. So the reason you sold is that you
25 wanted to decrease the number of shares in IBM

0071

1 JOSEPH ANCHINOVSKI

2 stock that you held?

3 A. For the moment.

4 Q. Why did you want to decrease the
5 number of shares in IBM shares that you held?

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6 MR. PLASSE: objection to the
7 form. You can answer.

8 A. Just, you know, I wanted to do this
9 transaction. I cannot recall the reason at the
10 moment.

11 Q. If you turn two pages further in,
12 to the page bearing the Bates number on the
13 bottom right A 23.

14 A. Yes.

15 Q. It appears from this confirmation
16 sheet that you bought 1,000 shares at a price of
17 \$89.50 on April 5th, 2005; is that correct?

18 A. This is correct.

19 Q. Why did you decide to buy 1,000
20 shares on this date?

21 A. The stock dropped further and
22 probably I was reading some good news of IBM.

23 Q. What good news were you reading?

24 A. Any commentary from, you know,
25 analyst or commentaries from the newspaper.

0072

JOSEPH ANCHINOVSKI

1 Q. Do you recall what good news
2 specifically you heard?

3 A. I cannot recall, but probably that
4 always reading something about what is going on
5 in the market.

6 Q. Do you recall anything that
7 happened on or about April 5th, 2005 that led
8 you to buy 1,000 shares in IBM stock?

9 A. What led me to do that? I wanted
10 to accumulate again a little bit of the stock.
11 It went down enough from the first time I bought
12 it. You know, I wanted to do that.

13 Q. But you can't recall any particular
14 piece of news that you heard?

15 A. No. No. Still at the moment I
16 feel very comfortable with IBM.

17 Q. You stated that you heard good
18 news. But I notice that the price was dropping
19 between this purchase and the purchases you had
20 made before.

21 A. Yes. But it was very slightly. It
22 didn't make much of a differential. It was 3/29
23 and this was 4/05. So that's the week after.

24 Q. But leading up until April of 2005

0073

JOSEPH ANCHINOVSKI

1 all of your trades were in the 90s?

2 A. Yes.

3 Q. And here it dips to the high 80s.

4 A. Yes. This was 89.58. Not much of
5 a differential.

6 Q. Do you have --

7 A. In buying and selling from 91.71 to
8 89.58, it is 42, about \$1.10 differential. The
9 amount of shares it was a little differential on
10 the amount.

11 Q. Mr. Anchinovski --

12 A. Yes.

13 Q. -- why do you think the price of
14 IBM stock went down after good news about IBM
15 was released?
16

112906anchinovski
 17 MR. PLASSE: Objection to the
 18 form. You can answer the question.
 19 A. You have to repeat the question.
 20 Q. Earlier, I believe you testified
 21 that around April 5th, 2005 you heard some good
 22 news about IBM stock.
 23 A. Yes.
 24 Q. I am curious to know what your
 25 understanding is as to why the price went down?
 0074

1 JOSEPH ANCHINOVSKI
 2 MR. PLASSE: Are you done?
 3 MR. KIM: Yes.
 4 MR. PLASSE: Objection to the
 5 form. You can answer.
 6 A. Yes. By April 5th, you know, it
 7 was very close to the earnings report and still
 8 I like the company and I thought that the price
 9 it was coming down and I have an opportunity to
 10 make, you know, a little growth to that and I
 11 purchased that.
 12 Q. Isn't it usually -- sorry, strike
 13 that.
 14 In your understanding is it usually
 15 the case that when good news about a particular
 16 company is released to the market, the price of
 17 that stock would go up?
 18 A. Usually does.
 19 Q. Do you believe that does not always
 20 happen?
 21 A. It is very possible.
 22 Q. So good news can be released to the
 23 market about a particular stock and yet the
 24 price can go down; is that correct? To your
 25 understanding.
 0075

1 JOSEPH ANCHINOVSKI
 2 A. It is not the very usual situation.
 3 Q. So this situation here would not
 4 have been very usual; is that correct?
 5 MR. PLASSE: Objection to form.
 6 Q. In your understanding.
 7 A. I didn't see any dramatic coming
 8 down in order to be worried about that.
 9 Q. If you can turn two pages further,
 10 please, to the page bearing Bates stamp A 25.
 11 It appears that you purchased 2,000 shares on
 12 April 5, 2005; is that correct?
 13 A. Yes, sir.
 14 Q. What made you decide to purchase
 15 2,000 shares on this date?
 16 A. The same reason that I mentioned
 17 before that I bought, you know, the previous
 18 1,000 shares. They were about the same price
 19 that I purchased before. I liked the situation.
 20 The company was close to announce something.
 21 Q. Further below on the same page
 22 bearing Bates A 25 it indicates that you
 23 purchased 1,600 shares on the same day, April
 24 5th, 2005?
 25 A. Yes. Yes.
 0076

1 JOSEPH ANCHINOVSKI
 Page 31

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2 Q. So, between A 23 and A 25 it
3 appears that you made four purchases, one for
4 1,000 shares, one for 2,000 shares, and one for
5 1,600 shares.

6 A. That's correct.

7 Q. Can you explain to me why you
8 decided to purchase the total, I guess 4,600
9 shares of IBM stock on April 5, 2005?

10 A. I like the company. They were
11 close to announce, you know, soon their earnings
12 report. And I was confident that I was buying
13 properly.

14 Q. If you turn two pages further,
15 please.

16 A. Yes, sir.

17 Q. To the page bearing the Bates A 27
18 on the bottom right.

19 A. A 27. Yes.

20 Q. Is it correct that you purchased
21 1,600 shares on April 7th, 2005?

22 A. Yes, sir, I did. Yes, I purchased
23 1,600 on April 7th.

24 Q. Were you also purchasing these
25 shares because the prices was going down?

0077

JOSEPH ANCHINOVSKI

1 A.
2 Because it was a very good price to
3 buy.

4 Q. Were there any other reasons why
5 you purchased these shares on April 7th?

6 A. I was accumulating stocks, you
7 know, waiting for the release of the earnings in
8 the company.

9 Q. Did you believe that the release of
10 the earnings would cause the price to go back
11 up?

12 A. Well, all the news that was on the
13 market that the company was doing good.

14 Q. Were you expecting the price to go
15 back up when the earnings announcement came out?

16 A. Very much so.

17 Q. Did you believe that as the price
18 of IBM stock was dropping that it was
19 undervalued and that it would return to a high
20 price?

21 A. I felt it was a good price. I
22 didn't know if it was under valued.

23 Q. What do you mean by good price?

24 A. Good price from the previous
25 purchase, you know, I was buying, you know, at

0078

JOSEPH ANCHINOVSKI

1 the lower price. I understood that that's, you
2 know, an opportunity to buy.

3 Q. Turn two pages further, please, to
4 the page bearing the Bates stamp A 29. And also
5 two pages beyond that to the page bearing the
6 Bates stamp A 31. It appears from these two
7 pages that you sold 1,170 shares on April 8th,
8 2005. Let's just take them one at a time.

9 On the page bearing Bates stamp A
10 29 it appears that you sold 1,170 shares of IBM
11 stock on April 8, 2005.
12

112906anchinovski

13 A. Yes.
 14 Q. Why?
 15 A. I was trying to sell some of the
 16 stocks that I purchased early to balance my
 17 portfolio and the amount of money I invested on
 18 IBM.
 19 Q. Were there any other reasons that
 20 you decided to sell?
 21 A. No reason at all.
 22 Q. Turn two pages further, please, to
 23 the page bearing the Bates stamp A 31. This
 24 appears to indicate that you sold 1,500 shares
 25 on April 11; is that correct?

0079

1 JOSEPH ANCHINOVSKI
 2 A. Yes, sir.
 3 Q. Why did you sell?
 4 A. For the same reason I sold 1,170,
 5 you know, to balance my portfolio and reducing
 6 my holdings from higher prices that I paid
 7 previously.
 8 Q. Were there any other reasons?
 9 A. No. Not at all, sir.
 10 Q. Please turn two pages further. The
 11 page bearing Bates stamp A 33. Is it true you
 12 bought 1,000 shares on April 14, 2005?
 13 A. Yes, sir.
 14 Q. Can you tell me why?
 15 A. Because the price, you know,
 16 apparently it was low and still I was waiting
 17 for the news about the earnings report for the
 18 quarter.
 19 Q. Did you actually hear the earnings
 20 report for the quarter?
 21 A. It was coming out 18th of April.
 22 Q. Do you recall when it actually came
 23 out?
 24 A. Yes, sir. At the closing of the
 25 market I believe it was 4/14/2005.

0080

1 JOSEPH ANCHINOVSKI
 2 Q. So you made this purchase of 1,000
 3 shares at \$83.70 per share before that
 4 announcement?
 5 A. Yes, before any announcement.
 6 That's correct.
 7 Q. Turn two pages further, please, to
 8 the page bearing the Bates stamp A 37. It is
 9 true on April 18, 2005 you purchased 1,170
 10 shares?
 11 A. Yes, sir.
 12 Q. Why?
 13 A. Because the stock dropped and I
 14 want to average down the cost of the stock.
 15 Q. Had you heard the earnings
 16 announcement before purchasing this stock?
 17 A. I heard the earnings that they, you
 18 know, missed the target that they were trying
 19 to, you know, accomplish.
 20 Q. Did that play any factor in your
 21 decision to purchase stocks on April 18th, 2005?
 22 A. It didn't play at the moment, it
 23 did not play any problem on me on that.

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24 Q. If you turn two pages further,
25 please. The page bears a Bates stamp A 39. Is
0081

JOSEPH ANCHINOVSKI

1 it true that on April 20th, 2005 you sold 2,000
2 shares of IBM stock?

3 A. Yes, sir.

4 Q. Why?

5 A. Because really I have too much
6 money involved in IBM and with the news they
7 have, the news they have on the newspapers and
8 on the radio and TV, you know, is just I wanted
9 to be, you know, safe in case that something
10 further it will happen.

11 Q. Were there any other reasons that
12 you sold on April 20th?

13 A. Well, the stock went down so much
14 that really it was affecting me, you know, I was
15 getting really, you know, damaged on that.

16 Q. Damaged how so?

17 A. Damaged economically.

18 Q. Turn two pages further, please.
19 Page bearing the Bates stamp A 41. Is it true
20 that on April 22, 2005 you bought 2,000 shares?

21 A. Yes, sir, I did.

22 Q. And below that it indicates that
23 you sold a total of 4,000 shares on the same
24 day.
25

0082

JOSEPH ANCHINOVSKI

1 A. Yes, sir.

2 Q. Why did you decide to buy 2,000 and
3 then sell 4,000 shares on the same day?

4 A. Well, I just, you know, the price
5 of that, you know, the market will say that
6 there is some light on the future and I bought
7 and then I heard other news and I sold. You
8 know, at this point I was a little confused and
9 I was doing, you know, as much as I could to
10 save some money.

11 Q. Turn two pages further, please,
12 page bearing the Bates stamp A 43. It appears
13 you sold 1,670 shares --

14 A. Yes.

15 Q. -- on May 4th.

16 A. Yes.

17 Q. Can you explain why?

18 A. I tried to recoup some money that I
19 lost previously.

20 Q. Can you explain what you mean by
21 you tried to recoup some money you lost
22 previously?

23 A. Yes. I lost money, you know,
24 because of the price was fluctuating lower and I
25

0083

JOSEPH ANCHINOVSKI

1 tried to recuperate some of the money that was
2 lost trying to balance, you know, my holdings.

3 Q. Please turn two pages further to
4 the page bearing the Bates stamp A 45. It
5 appears you bought 1,670 shares --

6 A. Yes. Right.

7 Q. -- on May 6, 2005.
8

112906anchinovski

9 A. Right. sir.
 10 Q. why?
 11 A. Because it traded lower than the
 12 price previously I bought it and I again tried
 13 to make, you know, a jump up in order to recoup
 14 some of the money that I lost.
 15 Q. Turn to the next page. Two pages
 16 further, rather. On the page bearing A 47 Bates
 17 stamp.
 18 A. Yes.
 19 Q. It appears on May 11, 2005 you
 20 purchased a further 1,250 shares.
 21 A. Yes, sir.
 22 Q. Can you tell me why?
 23 A. For the same reason, I tried to buy
 24 at the lower price. I have the opportunity to
 25 buy, you know, expecting the pricing will go

0084

JOSEPH ANCHINOVSKI

1 higher.
 2 Q. why did you expect the price to go
 3 higher?
 4 A. Because already it came to a point
 5 that it was unbelievable that the stock could
 6 reach that level.
 7 Q. why did you think it was
 8 unbelievable?
 9 A. Unbelievable because of whatever
 10 was happening with the news of IBM.
 11 Q. What sort of news of IBM?
 12 A. The news of IBM that they missed
 13 the target and also, you know, they misled, you
 14 know, the investment community and the investor.
 15 Q. But you thought that the price
 16 could not go further below this?
 17 A. I just I buy to balance my
 18 portfolio and try, you know, to do better with
 19 the stock that I own.
 20 Q. Turn two pages further, please --
 21 A. Yes, sir.
 22 Q. -- to page A 49. It appears that
 23 you bought 1,250 shares on May 12th.
 24 A. Yes.

0085

JOSEPH ANCHINOVSKI

1 Q. Is that correct?
 2 A. Yes, sir.
 3 Q. why?
 4 A. For the same reason that I bought
 5 before 1,250 expecting the price, you know, to
 6 stabilize and go a little higher and recoup some
 7 of the money that I have lost previously.
 8 Q. Again, why did you expect the price
 9 to go higher?
 10 A. Just it came down that badly. In
 11 the history of IBM something like that, it
 12 didn't happen, from what I can recall.
 13 Q. Did you think the price had gone
 14 down too much based on the news?
 15 A. They say it wasn't, you know, not
 16 to guess the bottom on the newspaper.
 17 Q. Turn two pages further --
 18 A. Yes, sir.

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20 Q. -- to the page bearing the Bates
21 stamp A 51.
22 A. Yes, sir.
23 Q. Is it true you sold 2,500 shares on
24 May 16, 2005?
25 A. Yes, sir.

0086

1 JOSEPH ANCHINOVSKI
2 Q. why?
3 A. In order to recoup some of the
4 money that I, you know, I lost before and I
5 bought the previous one at the lower price that
6 I could sell it now. Just I was taking any kind
7 of a profit I could in order to recoup some of
8 my money.
9 Q. Turn two pages further, please, to
10 the page bearing the Bates stamp A 53. It
11 appears on May 17th, you bought 2,030 shares.
12 A. Yes, sir.
13 Q. And on the same day May 1 you sold
14 2,000 shares. Can you tell me why you made
15 these transactions?
16 A. Yes. Just the same way like I did
17 before, trying to recoup some of the money that
18 I have lost previously. And I made a little
19 profit on that.
20 Q. Turn two pages further to page A
21 55. Is it true that also on May 17th you sold
22 1,640 shares?
23 A. Yes, sir.
24 Q. Can you tell me why?
25 A. Just I tried, you know, to sell

0087

1 JOSEPH ANCHINOVSKI
2 whatever I could have, you know, sale. I was
3 afraid to lose more money.
4 Q. Turn two pages further, please, to
5 the page bearing Bates number A 57. Is it true
6 that on May 18, 2005 you sold 1,060 shares?
7 A. Yes.
8 Q. Can you tell me why?
9 A. For the same reason I tried to
10 recoup some of my money and I sold it because I
11 was afraid to lose more money.
12 Q. And two pages further on page A 59
13 it appears on May 19th, a day later you sold a
14 further 1,500 shares; is that correct?
15 A. Right. Yes, sir.
16 Q. Can you tell me why?
17 A. For the same reason. I was afraid
18 to continue losing money and I just, you know, I
19 sold that. I was lightening up my portfolio in
20 IBM.
21 Q. The next two pages, two pages
22 further on A 61. This appears to show you
23 bought 1,600 shares on May 20th?
24 A. Yes. Right.
25 Q. Did something change between the

0088

1 JOSEPH ANCHINOVSKI
2 prior transaction where you decided now to
3 purchase some additional shares?
4 A. Say again.

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Q. You stated earlier you were selling your shares to decrease.

A. I was selling, lightening it up. Yes, I bought here 1,600. I got probably from there it is going to be a little better.

Q. Why did you think it was going to be a little better from there?

A. It was some news on the newspaper, some upgradings also.

Q. Excuse me?

A. Some upgradings.

Q. Do you recall what specific news you had heard?

A. Not at the moment, sir.

Q. Do you recall from where you learned there were upgradings?

A. Yes. Upgradings in the computer you can see there are some upgradings there.

Q. Were you reading any analyst reports at the time?

A. At the time of this I look

0089

JOSEPH ANCHINOVSKI

generally what is the news in the market. Probably I put it down to find out how the company is doing.

Q. Were there any other reasons why you decided to purchase 1,600 shares on this date?

A. Nothing, still, you know, I was buying because I wanted to recoup some of the money that I lost previously.

Q. Turn two pages further, please, to the page Bates stamped A 172.

A. Yes.

Q. Is it true on May 26 you sold 1,600 shares?

A. Yes, I sold that at a better price than I purchased it trying, you know, to recoup some of the lost money. I purchased that. I sold that stock.

Q. Were there any other reasons why you decided to sell?

A. No. No. No. Just for a little profit and trying to recoup some of the money that I lost previously.

Q. Please turn two pages further.

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JOSEPH ANCHINOVSKI

A. Right.

Q. Page bearing Bates number A 170. Is it true on June 20, 2005 you bought 1,974 shares?

A. You have something in between?

Q. Sorry. Yes. Go one page before that.

A. Why he.

Q. To the page bearing Bates number A 171. Is it true on June 16th, 2005 you sold 2,500 shares?

A. Yes, I did.

Q. Why?

A. Because I tried to just lightening

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 16 it up a little bit and get out of IBM for the
 17 time being, that it could go lower and, you
 18 know, I sold those 2,500 shares.
 19 Q. And turn --
 20 A. This is, if there is any other
 21 reason probably I bought some other stocks in
 22 between.
 23 Q. Okay. Turn to the following page,
 24 please.
 25 A. Yes, sir.

0091

1 JOSEPH ANCHINOVSKI
 2 Q. To A 170. Is it true on June 20th,
 3 2005 you purchased 1,974 shares?
 4 A. Yes, sir.
 5 Q. Can you tell me why?
 6 A. I tried to recoup some money and
 7 tried to get the better price in order to recoup
 8 some of the money that I have lost.
 9 Q. Were there any other reasons?
 10 A. It is very probably that if there
 11 is any other reason, I invest in any other
 12 company that I could do better than what I have
 13 done with IBM.
 14 Q. If you turn to the following page,
 15 please, to page A 169.
 16 A. 169.
 17 Q. This seems to show that you sold
 18 1,974 shares.
 19 A. Yes.
 20 Q. On June 20th, 2005.
 21 A. Yes.
 22 Q. That is the same day --
 23 A. Yes.
 24 Q. -- as the day you purchased 1,974
 25 shares.

0092

1 JOSEPH ANCHINOVSKI
 2 A. Yes. I sold this to recoup some
 3 money that I lost previously and I made a little
 4 profit on that and I have taken it. And I
 5 liquidate, you know, all the shares that I own
 6 in IBM.
 7 VIDEOGRAPHER: We need to change
 8 the tape. Going off the record at 1:14. This
 9 is the end of tape number 1.
 10 (Luncheon Recess: 1:14 p.m.)

11

12 A F T E R N O O N S E S S I O N
 13 2:10 p.m.

14 JOSEPH ANCHINOVSKI,
 15 resumed, having been previously duly sworn, was
 16 examined and testified further as follows:

17 VIDEOGRAPHER: Beginning tape
 18 number 2 and returning to the record at 2:10
 19 from 1:14.

20 CONTINUED EXAMINATION BY MR. KIM:

21 Q. Welcome back.

22 A. Thank you.

23 Q. When we left we discussed I believe
 24 your last trade according to these records in
 25 Exhibits 8 and 9 that appear to be on June 20,

0093

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JOSEPH ANCHINOVSKI

2005. Was that your last trade in IBM shares?

A. You're talking about 6/22/05?

Q. Yes. Last page, A 169.

A. Yes. I don't have more stocks on IBM.

Q. So you never made any trades in IBM securities after June 20, 2005?

A. Not until this day.

Q. Do you hold any IBM shares to this day or after June 20, 2005?

A. No. I just sold out everything I own.

(Discussion off the record.)

MR. PLASSE: You can't say anything. You can't do that. Having said what you shouldn't have said, do you have anything further to say?

A. Say again the question.

Q. So, after June 20, 2005 you neither traded in IBM securities nor held any IBM securities after that date; is that correct?

A. Since the 20th of June of 2005, I don't have any shares of IBM.

Q. You never received any shares of

0094

JOSEPH ANCHINOVSKI

IBM as a gift?

A. No. Not at all.

Q. Did you ever give any shares of IBM as a gift?

A. I gave. Thank you. I gave to my three grandchildren ten shares each.

Q. I see.

A. 30 shares. Thank you very much.

Q. Mr. Anchinovski, are you aware that on April 5th, 2005 IBM made an announcement concerning the expensing of options?

MR. PLASSE: I have an objection to form. Was he aware on that date or is he aware now or some other time?

Q. Are you aware now that --

A. Yes.

Q. Let me rephrase the question.

A. Yes. That there were expensing of the options, yes, I'm aware.

Q. When did you first become aware of the April 5th, 2005 announcement?

A. When I was aware, when I heard the news, you know, in different media and probably I put the computer and I have the news over

0095

JOSEPH ANCHINOVSKI

there when I read, you know, I put Yahoo Finance and I hear the news, you know, and I check.

Q. Do you recall approximately the first time that you became aware of IBM's April 5th, 2005 announcement?

A. That was the next day that all the news came out in there, I was aware of that. So I got acquainted of that that they were calling the community, you know, analysts and the investors to change the model, you know, of what

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they can expect after realizing the expenses of those spendings on those options they were giving, you know. And they did it like six months before the time they were supposed to do it by, you know, by law. And they have done that. And they made a correction that the issue is supposed to be adjusted from expectations of \$1.04 to .90.

So they figured that they will correct, you know, the coming announcement and it is going to be .90 for the projected earnings for the quarter.

Q. Did you hear that announcement when it actually occurred on April 5th?

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JOSEPH ANCHINOVSKI

A. I don't --

MR. PLASSE: Objection, I think it has been asked and answered, but go ahead, Mr. Anchinovski. Go ahead.

A. I don't recall that. But I heard the announcement. I read the announcement. This is what I can recall at the moment.

Q. Did you hear the announcement in full or did you read accounts of it?

A. I read in full but, you know, I cannot recall exactly what it is. Because when I read, you know, it is not the announcement if it comes out anything I try to read the whole article of what is in there.

Q. So you read articles about the announcement in full as opposed to a transcript of the actual announcement; is that correct?

A. It is just whatever was on the newspaper and the media, this is what I can say.

Q. Did you have a reaction to the announcement?

A. I thought it was something that occurred unexpectedly, but I didn't see, you know, no reason, you know, just to be worried

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JOSEPH ANCHINOVSKI

about that.

Q. Did the announcement or anything you heard about the announcement influence your decision to buy or sell IBM securities after that?

A. I felt it wasn't much of a situation. And I believed that the company will call the earnings when they will, you know, in time they did 15th of April and we will have good news.

Q. Would you have continued to trade in IBM securities regardless of whether you heard the announcement on April 5th?

MR. PLASSE: Objection to the form. You may answer.

Q. Would you have continued to trade in IBM securities after April 5th regardless of whether you heard the April 5th announcement?

MR. PLASSE: Objection to the form. You may answer. Go ahead.

A. Yeah. I wouldn't do it. I will be

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 23 worried it is not the same thing like when I
 24 start to do, you know, the accumulation of the
 25 stock of IBM. I will continue doing so if I
 0098

1 JOSEPH ANCHINOVSKI
 2 will be worried of anything, I didn't see
 3 anything that it will make me change my mind at
 4 that moment.
 5 Q. So you heard about the
 6 announcement --
 7 A. The announcement, yes, of adjusting
 8 the model, you know, of what is being expected
 9 for the near future.
 10 Q. And nothing about that announcement
 11 that you heard or read influenced your decision
 12 to purchase or sell securities after?
 13 MR. PLASSE: Objection to the
 14 form. Asked and answered.
 15 Q. Is that correct?
 16 MR. PLASSE: But you can respond.
 17 A. At that point I was very
 18 comfortable still with IBM because eventually
 19 that situation, it has to do with several
 20 quarters later, so...
 21 Q. Would you say that you relied on
 22 the announcement in any sense in making the
 23 decisions to purchase and sell IBM securities
 24 after April 5th?
 25 MR. PLASSE: Objection to the

0099
 1 JOSEPH ANCHINOVSKI
 2 form. Asked and answered. But you can answer
 3 it, Mr. Anchinovski.
 4 A. Repeat the question, please.
 5 Q. Would you say that you relied in
 6 any sense on the announcement or anything you
 7 heard about the announcement after -- let me
 8 finish -- after April 5th in making decisions to
 9 purchase and sell IBM securities after April
 10 5th?
 11 MR. PLASSE: Same objection. You
 12 can answer.
 13 A. After April 5th still I felt that
 14 IBM continued being a very solid company. And
 15 whatever they announce, it was proper.
 16 Q. I guess if you could answer yes or
 17 no to whether, the question is did you rely in
 18 any sense on the April 5th announcement or
 19 anything you read or heard about the April 5th
 20 announcement?
 21 MR. PLASSE: Objection to the
 22 form. You can answer.
 23 Q. In purchasing or selling IBM
 24 securities after April 5th, 2005?
 25 A. That thing don't influence me on

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 1 JOSEPH ANCHINOVSKI
 2 the decision, I keep thinking it was a good
 3 investment, IBM.
 4 Q. Mr. Anchinovski, in your own words,
 5 what specifically is it that you claim IBM and
 6 Mark Loughridge have done wrong?
 7 A. Well, when Mr. Loughridge -- that

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8 is the way to pronounce it -- yes? He made the
 9 announcement being, you know, the CFO and a
 10 senior vice president, he was responsible for
 11 giving, you know, this form, you know, making a
 12 new model on expecting, you know, earnings that
 13 will be accomplished.

14 Q. Is there anything else you believe
 15 that IBM or Mark Loughridge did wrong? Is there
 16 anything else beyond that that you believe that
 17 IBM and Mark Loughridge did wrong?

18 A. Whatever announcement he made when
 19 he came later on, you know, I realized that
 20 something wasn't right.

21 Q. What wasn't right?

22 A. When they announce to make the
 23 models for expectancy of earnings, he said that
 24 is going to be .14. And then when it came the
 25 15th of April the company announced that they

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JOSEPH ANCHINOVSKI

1 have problems on sales and other inconvenience.
 2 And they announce a reduction on their earnings
 3 that was different than the model he predicted
 4 that the community of investors and the analysts
 5 they should put on the model expectancy.

7 Q. Did Mark Loughridge or IBM know on
 8 April 5th what first quarter earnings would be?

9 A. By being the CFO he is very capable
 10 to direct whatever IBM accomplish and knowledge
 11 of the company, he will be the person
 12 responsible for whatever saying IBM has to say.

13 Q. Do you know if Mark Loughridge knew
 14 on April 5th what IBM's first quarter earnings
 15 would be for 2005?

16 A. No. No way to know.

17 Q. Do you know if anyone at IBM knew
 18 on April 5th, 2005 what IBM's earnings for the
 19 first quarter of 2005 would be?

20 A. It seems that the company it was
 21 trying, you know, to cover the problem they have
 22 on their quarter finishing orders and all of
 23 that and the differential that there will be
 24 between, you know, the model predicted and that
 25 it seems that they knew something about it and

0102

JOSEPH ANCHINOVSKI

1 they want to cushion, you know, what the market
 2 will react by being a larger differential.

4 So, the company they did come out
 5 with the earnings and they came out with about
 6 .85 to 90 cents expectancy on the model will be.

7 Q. I am not sure if I got a direct
 8 answer to the question I asked. Which was do
 9 you know if anyone at IBM knew on April 5th,
 10 2005 what IBM's earnings for the first quarter
 11 of 2005 would be?

12 MR. PLASSE: Objection, asked and
 13 answered. You can answer it.

14 A. Yes. There is no way that could
 15 get to my knowledge.

16 Q. Just a moment ago you testified
 17 that it seemed to you that IBM was trying to
 18 cover the problem they had on their quarter

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 19 finishing the orders. And you also mentioned a
 20 differential between the model predicted and
 21 that they wanted to cushion what the market
 22 would react.

23 what is the basis for that answer,
 24 Mr. Anchinovski?

25 A. well, at the end of the quarter,

0103

1 JOSEPH ANCHINOVSKI
 2 you know, the company just came out with an
 3 earnings report and they were short of what they
 4 predicted. And they told the community of
 5 investors and analysts that they should adjust
 6 on their model. So the differential it was, you
 7 know, wide, so the community was surprised by
 8 that.

9 Q. when did you come to have that
 10 understanding?

11 A. After the 15th of April when they
 12 gave up, you know, the quarter report.

13 Q. was it right after the 15th of
 14 April?

15 A. Just, you know, at the end of the
 16 day of the 14th of April when they came out with
 17 their earnings.

18 Q. Is that your only basis for that
 19 statement?

20 MR. PLASSE: Objection to form.
 21 You may answer.

22 Q. Is that the only basis for the
 23 answer you gave regarding -- sorry. Is that
 24 your only basis?

25 MR. PLASSE: Objection to the

0104

1 JOSEPH ANCHINOVSKI
 2 form. You may answer.

3 A. This is what I saw.

4 MS. GRAYER: Can we go off the
 5 record a second.

6 VIDEOGRAPHER: Going off the record
 7 at 2:28.

8 (Recess taken.)

9 VIDEOGRAPHER: Returning to the
 10 record at 2:30 from 2:28.

11 Q. Mr. Anchinovski, if you could turn
 12 to the middle of Exhibit 3, you see it says
 13 Exhibit A?

14 A. There is a number of pages.

15 Q. There is no page number
 16 unfortunately. I'll find it for you.

17 A. We are talking about this one?

18 Q. No. This one here.

19 Mr. Anchinovski, this appears to be
 20 the transcript -- this is the transcript of
 21 IBM's April 5th announcement concerning the
 22 expensing of options. Have you ever seen the
 23 transcript?

24 A. I just pass over it, but I didn't
 25 concentrate on that.

0105

1 JOSEPH ANCHINOVSKI

2 Q. when did you pass over it?

3 A. This, yesterday, weeks ago, months

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4 ago.

5 Q. Did you pass over this or look at
6 it in any other respect prior to filing any
7 litigation?

8 A. This one was later on when I
9 received this book.

10 Q. Later on meaning after the
11 litigation?

12 A. After they put the litigation on,
13 yes. I didn't read it before that.

14 Q. From whom did you receive it?

15 A. We got this by mail.

16 Q. Who sent it to you?

17 A. The company, Labaton.

18 Q. Do you recall approximately when
19 that was?

20 A. If it is just the book, about the
21 22nd of May.

22 Q. Of this year?

23 A. It is, yes.

24 Q. But you didn't read it actually
25 carefully?

0106

1 JOSEPH ANCHINOVSKI

2 A. Not much. Not much.

3 Q. If you turn to the beginning of
4 Exhibit 3, please.

5 A. By the way, I rely on my lawyer,
6 you know. I just do not understand much about
7 legal, you know, but I can read.

8 Q. Okay. Please turn to the beginning
9 of Exhibit 3.

10 A. Yes, sir.

11 Q. Actually, have you seen the
12 Complaint before you?

13 A. I pass over it. Yes.

14 Q. Did you pass over it prior to the
15 filing of the Complaint or afterward?

16 A. After.

17 Q. Did you see any drafts of the
18 Complaint?

19 MR. PLASSE: I want to belatedly
20 interject an objection to form to that last
21 question. Go ahead.

22 Let him ask the next question. I
23 didn't mean to do anything other than to raise
24 an objection.

25 Q. Did you see any drafts of the

0107

1 JOSEPH ANCHINOVSKI

2 Complaint before it was finalized?

3 MR. PLASSE: Objection to the
4 form. And my problem is I'm not sure you
5 identified which Complaint you're talking about.

6 Q. Sorry. This particular Complaint,
7 either this Complaint, the Corrected
8 Consolidated Amended Complaint or one called the
9 Consolidated Amended Complaint?

10 MR. PLASSE: So that does not
11 include the Lomax Complaint?

12 MR. KIM: That does not include
13 the Lomax Complaint.

14 A. The 17th of May we receive a draft.

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15 Okay. They call me on the phone. They send me
16 a draft with the letter from the clerk and they
17 say Mr. and Mrs. Anchinovski --

18 MR. PLASSE: Whoops. I don't want
19 you to talk about what we may have said to you.

20 THE WITNESS: Okay.

21 MR. PLASSE: You can talk about
22 what you received, but not what we said.

23 A. We received the draft and to read
24 it and have any comment about that please call
25 us up.

0108

1 JOSEPH ANCHINOVSKI

2 Q. Did you have any comments on the
3 Complaint?

4 A. Not on the draft.

5 Q. Did you read the Complaint, the
6 draft Complaint that they sent you?

7 A. I didn't put much attention, I
8 leave it to the lawyers so they can do whatever
9 they think is right on this situation.

10 Q. Mr. Anchinovski, there are
11 allegations throughout the Complaint that is
12 marked as Exhibit 3 about what IBM intended to
13 accomplish during its April 5th announcement
14 concerning the expensing of options. Are you
15 aware of these allegations?

16 A. Yes, sir.

17 Q. If you could turn to paragraph 21
18 of the Complaint, please. Paragraph 21 of the
19 Complaint refers to the intended effect of
20 defendant's April 5th conference call.

21 Do you know the basis for that
22 allegation?

23 A. Well the basis -- let me read it
24 again, because it is all about this one right,
25 okay.

0109

1 JOSEPH ANCHINOVSKI

2 I can read here, you know, which
3 one were the allegations. I see there were
4 witnesses here that they say that Loughridge
5 reviewed information in order to provide
6 Loughridge with very accurate financial result.
7 Defendant certainly will know the result of the
8 quarter ended March 30, 2005 by April 5th.

9 Q. Beyond reading the allegations in
10 the Complaint that you just read, do you have
11 any knowledge as to the basis of those
12 allegations?

13 A. Well, my knowledge is that he gave
14 to the community of investors and also analysts
15 a range where the earnings they will be after
16 the location of those options. So the .14 that
17 he mentioned was just in the model, it will
18 indicate they should reduce to .90 the profit
19 for \$1.04 when they came out with the earnings
20 report I find out and the community as a whole
21 that investors in IBM and give its opinion on
22 IBM they realize that something wasn't right on
23 the initial talk of Mr. Loughridge to the
24 community.

25 So they report .85 in place of .90

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0110

JOSEPH ANCHINOVSKI

for the quarter.

Q. Mr. Anchinovski, a moment ago I asked you whether you were aware of the allegations in the Complaint that the April 5th conference call had its intended effect, the statements and allegations regarding the intent of IBM and Mark Loughridge. What was IBM and Mark Loughridge's intent?

A. I cannot understand the question. Can you simplify it.

Q. I will reread the question to you. There are allegations throughout the Complaint that is marked as Exhibit 3 about what IBM intended to accomplish during its April 5th announcement concerning the expensing of options. Are you aware of these allegations?

A. I am aware, yes.

Q. What are those allegations?

A. The allegation is that it seems that Mr. Loughridge, representing IBM as a senior vice president and CFO, to cushion, you know, the blow that there could be if it is a larger differential of earnings.

Q. What is the basis for those

0111

JOSEPH ANCHINOVSKI

allegations?

A. Whatever did happen, you know, when they report the earnings on the 15th coming from the 5th of April when they were changed on the models, you know.

Q. Is there anything else?

A. Not for the moment.

Q. Are you aware of the allegations in the Complaint that IBM and Mark Loughridge knew as of April 5th, 2005 what the options expense would be for the first quarter of 2005?

A. Repeat one more time, please.

Q. Are you aware of the allegations in the Complaint that IBM and Mark Loughridge knew as of April 5th, 2005 what the options expense would be for the first quarter of 2005?

A. The expense that he mentioned to the investor in the community of analysts that there was .14 to be adjusted, you know, to the model, you know, for the first quarter. So they did explain how it was done previously and they will do it again in the same manner as --

Q. Right. But my question is, are you aware of the allegations in the Complaint that

0112

JOSEPH ANCHINOVSKI

IBM and Mark Loughridge in fact knew on April 5th what that options expense would be for the first quarter of 2005?

A. I don't understand the question. I thought I answered that question appropriately.

Q. In the Complaint, if you could turn to page 9 of Exhibit 3, the Complaint and direct your attention to paragraph 24, please.

A. Page 9. Yes.

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 11 Q. Paragraph 24 alleges "Defendants
 12 knew by April 5th, but failed to disclose at
 13 that time, that the company would report
 14 financial results for the first quarter of 2005
 15 significantly lower than the .90 level which
 16 defendants indicated to analysts on April 5th,
 17 2005."

18 Are you aware of this allegation?

19 A. I am aware of that allegation.

20 Q. What is the basis for this
 21 allegation?

22 A. Well, they were supposed to, you
 23 know, to do it, but they failed to disclose at
 24 the time that probably they have different
 25 numbers, you know, on the options that they will

0113

JOSEPH ANCHINOVSKI

1 be granted provided it should be .10 and not
 2 .14.

3
 4 Q. You just a moment ago stated they
 5 were supposed to do it. Can you clarify what
 6 they were supposed to do?

7 A. Supposed just to tell the community
 8 in the adjusting that there should be, you know,
 9 .10 and not .14 as they say, you know, after the
 10 closing of the quarter, you know, on the 15th of
 11 April.

12 Q. Just a moment ago you testified --
 13 on paragraph 24 it alleges that defendants knew
 14 by April 5th. What is the basis for the
 15 allegation that defendants knew, had knowledge
 16 by April 5th?

17 A. It is very difficult for me to
 18 understand the question, so I could respond to
 19 you what is the basis. I'm saying that they
 20 knew because, you know, when the quarter came
 21 up, you know, with the .85 and they say .90,
 22 they were short because of the reason that they
 23 have problems, you know, on share sales and
 24 other type of problems, you know, that could be
 25 identified, you know, in other ways, you know,

0114

JOSEPH ANCHINOVSKI

1 that they have shortfall by operational issues.

2 Q. Do you think defendants knew by
 3 April 5th?

4 A. I believe so.

5 Q. You believe so or do you know so?

6 A. No. I believe so that.

7 Q. Why?

8 A. Why? Because, you know, in
 9 presenting the quarter it was a shortfall on
 10 earnings. And IBM always is on the mark. It
 11 could be wrong in one cent, but not on that
 12 amount.

13 Q. Are there any other reasons?

14 A. Not that I can say.

15 Q. Are you aware that throughout the
 16 Complaint there appear statements attributed to
 17 confidential witnesses?

18 A. I just read a little bit up very
 19 slightly on this matter.

20 Q. Do you know anything about the

21

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 22 particular allegations made by the confidential
 23 witnesses in the Complaint?
 24 A. No. No idea.
 25 Q. Can you tell me anything about the

0115

1 JOSEPH ANCHINOVSKI
 2 allegations they have made?
 3 A. No. No idea. My counsel he knows
 4 about that how to respond to it. I do not
 5 understand. I know it is an ongoing
 6 investigation. And my counsel directs that and
 7 I don't know much about it.
 8 Q. How do you know it is an ongoing
 9 investigation?
 10 A. Yes, because I read it here.
 11 Q. You don't know why the confidential
 12 witnesses appear in the Complaint; do you have
 13 any understanding as to why the confidential
 14 witnesses appear in the Complaint?
 15 A. Because they testify in some way to
 16 the investigators on the matter.
 17 Q. Do you have any knowledge as to who
 18 the confidential witnesses are?
 19 A. Not at all.
 20 Q. You never met them?
 21 A. No.
 22 Q. Do you know their names?
 23 A. No.
 24 Q. Do you know anything about the
 25 confidential witnesses other than what is in the

0116

1 JOSEPH ANCHINOVSKI
 2 Complaint?
 3 A. Whatever my --
 4 MR. PLASSE: Objection to form.
 5 You may answer.
 6 A. My counsel, he knows about that,
 7 you know.
 8 Q. I would actually like a yes or no
 9 answer to the question. The question was do you
 10 know anything about the confidential witnesses
 11 other than what is in the Complaint?
 12 MR. PLASSE: Objection to the
 13 form. You may answer.
 14 A. No. Not at all.
 15 Q. Thank you. Mr. Anchinovski, what
 16 are the damages you seek?
 17 A. What I seek is, you know, to be
 18 corrected the best way, possible way, you know.
 19 And I seek some restitution of the money lost
 20 for the, you know, all investors that they
 21 suffer the same consequence that I did suffer
 22 myself having losses that were very high and it
 23 just did to myself and my family damage.
 24 Q. What is the extent of your injury?
 25 MR. PLASSE: Objection to the

0117

1 JOSEPH ANCHINOVSKI
 2 form. You may answer.
 3 A. Only one day the drop of IBM of
 4 \$6.94 it cost me a loss of \$123,000 plus.
 5 Q. Can you tell me how you arrive
 6 at -- sorry, can you tell me how you arrived at

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7 \$123,000 plus?

8 MR. PLASSE: Objection, asked and
9 answered. You may answer.

10 THE WITNESS: Can I answer?

11 MR. PLASSE: Yes.

12 A. I have 5,000 shares previous to the
13 framing time of the action and 7,200 more shares
14 that I purchased between the frame of the 5th to
15 the 14th of April. All together I own at the
16 time 12,000 something shares from which I made a
17 sale the 8th and 11th. And I have taken it out
18 from the highest price that I paid previously
19 and I come out to this figure that it was 37,000
20 plus, plus another 80-something-thousand, 86,000
21 plus on the frame of the class action.

22 Q. Let me take that in pieces.

23 A. Yes.

24 Q. Are you including in the
25 calculation that you just made --

0118

1 JOSEPH ANCHINOVSKI

2 A. A one day loss.

3 Q. Are you including in the
4 calculation that you just made the shares that
5 you held prior to the class period?

6 A. They are \$123,000. I tried to make
7 note in one day it was \$123,000 plus. But we
8 realize previously it was \$37,000 that I have
9 left over, you know, and another
10 80-something-thousand to complete the 100, to
11 make the mathematical \$123,000 plus.

12 Q. I am not sure I got a clear answer
13 to the question. Can you answer yes or no?
14 Then you can explain if you need to. Can I just
15 ask the question again.

16 Are you including in the
17 calculation regarding damages the shares that
18 you held prior to the class period?

19 A. I am not calculating the prior and
20 the post. But if I have to make a claim it is
21 for the time frame that it is the Complaint.

22 Q. What is that time frame?

23 A. The time frame is from the 5th to
24 the 14th.

25 Q. How many shares do you seek damages

0119

1 JOSEPH ANCHINOVSKI

2 for?

3 A. For what I will seek damage is
4 7,200 shares.

5 Q. How do you arrive at 7,200?

6 A. 7,200 is whatever I bought during
7 that period that the Complaint cites.

8 Q. You mentioned the number 37,000?

9 A. Yes.

10 Q. I just need clarification of what
11 that refers to.

12 A. Can I check, I make some numbers?

13 Q. Sure. Go ahead.

14 MR. PLASSE: I don't want you
15 looking at any documents. If you want to write
16 a calculation without looking at any documents,
17 you can. But if you can't do the calculation

112906anchinovski

18 without looking at anything, then you can't do
19 it. I'm sorry.

20 A. It's okay.

21 Q. Do you have any general
22 understanding as to the reason you mentioned the
23 number 37,000?

24 A. Yes. Because what I have left
25 over, you know, from the previous purchase of

0120

1 JOSEPH ANCHINOVSKI
2 the 5th of, you know, of that particular month.

3 Q. Feel free to make any calculations.

4 A. Give or take it is going to be
5 about 65,000 on the 7,200 shares that I
6 purchased on that. On this particular time
7 frame.

8 Q. How do you get to the \$65,000
9 number?

10 A. Well, it is my average cost of the
11 stock per share. Whatever, it is, you know.

12 Q. What do you mean by cost?

13 A. The cost that it cost me during
14 that time frame from the 5th to the 14th. So I
15 calculate the total amounts of the purchases and
16 then I multiply -- I divided by the units that I
17 have, right. And I know exactly how much it cost
18 me per share.

19 If I pay, let's say .89 and if I
20 pay .88, I do the division by the amount of
21 shares. So I come out with a, you know,
22 approximately because I cannot look at precise
23 numbers. So I say that probably is going to be
24 much more, but I just give you a ball park.
25 Okay? So I say in the area of the 63, 65,000.

0121

1 JOSEPH ANCHINOVSKI

2 Q. When you say cost, does that refer
3 to the cost at which you purchased the shares?

4 A. This is correct.

5 Q. My confusion comes from the fact
6 the prices are in the 90s. That is per share.
7 Is the 65,000 relating to the total cost?

8 A. Yes. You know, but, again, give or
9 take more because I have in my mind previously
10 about \$86,000. But because I cannot check I
11 just put a number. I don't know if it is close
12 to it. Potentially it is much more because I
13 have to look at the figures.

14 Q. If I were to add up for each
15 purchase the total amounts you paid for those
16 shares during the class period --

17 A. Yes.

18 Q. -- and subtract out for each sale
19 during the period the total proceeds that you
20 received, would I arrive at \$65,000?

21 A. Just tell me again how you will do
22 that.

23 Q. If I were to add up during the
24 class period for each purchase of IBM shares
25 that you made the total amounts for each

0122

1 JOSEPH ANCHINOVSKI
2 purchase --

112906anchinovski

3 A. Yes.

4 Q. -- that you paid for those shares.

5 A. Right.

6 Q. And then subtract out for each sale
7 of IBM shares the total dollar value that you
8 received back from that sale --

9 A. Yeah.

10 Q. -- would that up to \$65,000?

11 A. I don't consider in my calculation
12 the figure of the sales because I have a
13 previous, you know, owning of that stock, about
14 5,000 shares. I sold it from the highest price
15 that it cost and I made the figure on the frame
16 of the 5th to the 14th at the lower price of my
17 cost.

18 Q. How did you come to be involved in
19 this case?

20 A. Well, when I suffered the loss I
21 didn't have no way, you know, where to go to
22 claim for this situation. Unexpectedly I find
23 out on the internet another persons that have
24 lost money on 5th to the 14th of April. If they
25 would like, you know, to contact us and be a

0123

JOSEPH ANCHINOVSKI

1 plaintiff. And we have the telephone. We
2 contact the company. And it was Labaton. And
3 we came, my wife and I.

4 In the first instance we talked
5 what it was all about. Then we signed, you
6 know, a note where we agree, you know, to be
7 plaintiffs. And if there will be any deposition
8 to come and explain our situation. And that was
9 it, that I recall.

10 Q. The other person that you found on
11 the internet, can you tell me who that person
12 was?

13 A. In the internet?

14 Q. Yes.

15 A. Sucharow, the name of the company
16 right, and Rudoff, too, something like this.

17 Q. And you called back?

18 A. I called back. They invite me to
19 come. We came. We asked what it was all about.
20 We felt comfortable. Then we came back in
21 another moment and we signed -- we came first on
22 the month of, it could be June or July. Then we
23 signed these papers on the month of August. I
24 believe it was the 3rd August.

0124

JOSEPH ANCHINOVSKI

1 Q. Is that August of 2005?

2 A. That was August of 2005.

3 Q. At that time had you seen the
4 complaint filed by Donald Lomax?

5 A. No.

6 Q. Do you know who Donald Lomax is?

7 A. Not at all.

8 Q. Have you heard of Fahed Al-Araj?

9 A. No.

10 MR. PLASSE: You have to say yes
11 or no.

12 A. No.

13

112906anchinovski
 14 MR. PLASSE: I'm sorry, I didn't
 15 hear you.
 16 A. I said no.
 17 Q. Were there any other factors --
 18 actually, let's strike that.
 19 were there any other reasons you
 20 became involved in this litigation?
 21 A. No. Primarily we came because we
 22 really were hit very hard for our future, you
 23 know. I was looking maybe, you know, to get
 24 some damages, you know, in this situation just
 25 to recoup some of the money. That's all we have

0125
 1 JOSEPH ANCHINOVSKI
 2 done. We were very affected by that.
 3 Q. Are you seeking to become a class
 4 representative in this lawsuit?
 5 A. I did that. I signed for that.
 6 Q. Do you know what a class
 7 representative is?
 8 A. It is the first time, but I
 9 understand that I'm representing besides myself
 10 and my wife, the community of people that
 11 suffered the same consequence and they can
 12 recoup some money, too.
 13 Q. Can you tell me anything more about
 14 the class that you're representing?
 15 A. Well, you know, simple to say it is
 16 just what will be my role, that is the question?
 17 Q. Who would be a member of the class
 18 which you seek to represent?
 19 A. Who will be -- the class itself.
 20 You know, the class itself they will be members
 21 plus the gentlemen that will be a plaintiff, too
 22 that I hear his name is Mr. Rubenstein. And the
 23 first name I don't recall it. And my wife and
 24 I.
 25 Q. You never met Mr. Rubenstein?

0126
 1 JOSEPH ANCHINOVSKI
 2 A. No. No.
 3 Q. Do you know what your role would be
 4 as the class representative?
 5 A. Well, to assist in any way possible
 6 the lead, you know, counsel with the lawyers on
 7 his side. We will try to cooperate in whatever
 8 is necessary to help out to go to court, to
 9 dedicate whatever time is necessary so things
 10 can get, you know, complete the best way
 11 possible.
 12 Q. Do you have any responsibility as
 13 far as supervising counsel?
 14 A. It is a great responsibility that
 15 they commit and serve to do their job for the
 16 whole community that will be involved in this.
 17 My wife, myself, the other plaintiff, too.
 18 Q. How do you supervise counsel?
 19 A. Well, we call, we will come, we
 20 will go to court, we will ask them questions.
 21 And we'll be communicating, you know,
 22 accordingly with the situation.
 23 Q. How much time have you spent on the
 24 case thus far?

112906anchinovski

25 A. Going and coming and doing some

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1 JOSEPH ANCHINOVSKI

2 reading and just some telephone conversations,
3 probably in the area between 35 and 40 hours so
4 far.

5 Q. How much time do you expect to
6 spend on the case?

7 A. There is no way I could know, but I
8 will dedicate all the time I have with all my
9 might.

10 Q. Who would you say is in charge of
11 determining the course of this litigation?

12 A. I believe the three plaintiffs,
13 they are responsible to supervise and do
14 whatever's possible for the rest of the class.

15 Q. Have you made any decisions that
16 you can name to me regarding the prosecution of
17 this action?

18 A. At this moment I leave everything
19 to my lead counsel. We will discuss that, you
20 know, after my deposition. And when the time
21 will arrive, if it will arrive.

22 Q. You mentioned just a moment ago,
23 when the time will arrive; what time will
24 arrive?

25 A. The time to go to court, you know,

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1 JOSEPH ANCHINOVSKI

2 and if the situation we can pursue it and we can
3 come out, you know, with the truth of this
4 situation.

5 Q. If there is ever a disagreement
6 between counsel and yourself, how would you
7 resolve that disagreement?

8 A. If it comes the case of a
9 disagreement, we will talk about it and we will
10 try to smooth it up so we can understand the
11 best way to represent the class together with
12 the other plaintiff.

13 Q. Who would have final say if there
14 is disagreement you can't resolve?

15 A. The plaintiff will discuss what is
16 the convenient way to go, accordingly how this
17 equation will work out.

18 MR. KIM: Let's take a short
19 break.

20 VIDEOGRAPHER: Going off the record
21 at 3:12.

22 (Recess taken.)

23 VIDEOGRAPHER: Returning to the
24 record at 3:25.

25 Q. Turn to Exhibit 3, please, on

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1 JOSEPH ANCHINOVSKI

2 page 2. Direct your attention to paragraph 2.
3 At the top you see paragraph 2. Okay. The
4 first sentence of paragraph 2 states "Defendants
5 developed a plan to ensure a 'soft landing.'"
6 What is a soft landing?

7 A. It is just not to create, you know,
8 differentials between, you know, the price.
9 Soft landing in reference to this, not to be too

112906anchinovski

extended, too large. You know, so they tried to smoothen it up in a way so that it will be soft landing.

Q. How do you know that they tried to smoothen it up? You said they tried to smoothen it up. What is your basis for that allegation?

A. I am trying to explain what is the meaning of soft landing. That is something they try to cushion, you know, soft landing.

Q. It states that defendants developed a plan; what plan?

MR. PLASSE: Objection to the form. You may answer.

A. Yes, it is the plan so people wouldn't get, you know, like disturbed or per se unsatisfied for what is going on. So they

JOSEPH ANCHINOVSKI

smoothen it up by trying to shore up a little bit, you know, the effect of the differentials of prices that they were saying on the model, you know, to apply.

So when they came out with the differentials on prices from .90 to .85 they were creating like, you know, a smooth landing or a soft landing.

Q. Mr. Anchinovski, how do you know that they developed this alleged plan?

A. Well, if they, you know, calculate first that the company it will earn certain amount and they will say to the community that they supposed to subtract .14 from the model, you know, and actually it wasn't .14 after all, the problems it seemed they have other problems besides this situation, you know, short sales, problems in production, whatever it was. And the way they explained, Mr. Loughridge explained, you know, when he came to the report with the first quarter earnings.

Q. In the answer you just gave you said it seemed that they have other problems beside this situation; what do you mean by it

JOSEPH ANCHINOVSKI

seems?

A. It seems that, you know, they prove, you know, when they gave the earnings report that it was, you know, something else that they plan so it will create a soft landing. They knew in advance probably that the earnings they won't be, you know, as close as they predicted.

Q. The trouble I am having you keep saying they knew in advance probably the earnings wouldn't be as close as they predicted, you keep saying they knew, they knew. How do you know they knew? My question is how do you know they knew, what is your basis for that allegation?

MR. PLASSE: Go ahead.

A. Yes. The basis of my allegation is that they missed the target that they told the whole community, analysts and investors just to

112906anchinovski

21 make the model on the .90 from \$1.04. And then
 22 they came out with earnings that they were .85.
 23 So they were, you know, looking, you know, just
 24 to convince in advance that it will happen one
 25 thing and did happen something different.

0132

JOSEPH ANCHINOVSKI

1
 2 Q. Is there anything else?
 3 A. No. Nothing else.
 4 Q. Do you think your claims are
 5 typical of the claims of the members of the
 6 class?
 7 A. I believe so. This is something
 8 that if you have a fact that you feel you were
 9 damaged, you know, this will be typical on
 10 somebody that is in a class action to feel that
 11 way.
 12 Q. Do you have any conflicts with any
 13 other member of the class?
 14 A. Not at all. I didn't met the other
 15 members and I don't fight with my wife.
 16 Q. Have you ever received any monetary
 17 payment from your lawyers in this case?
 18 A. No. No, sir.
 19 Q. Do you get any more money from
 20 being the lead plaintiff?
 21 A. No, sir.
 22 Q. Have you been promised any money?
 23 A. No, sir.
 24 Q. How do your lawyers get paid?
 25 A. well right now it is a contingency

0133

JOSEPH ANCHINOVSKI

1 fee. And that's all it is to be.
 2 Q. How are expenses relating to this
 3 litigation paid? Who pays for the expenses of
 4 this litigation?
 5 A. Who pays for the expenses of this
 6 litigation?
 7 Q. Yes. Yes.
 8 A. I hope the company will pay, you
 9 know, IBM for that if they lose probably it will
 10 be them.
 11 Q. If you win the case who would pay?
 12 A. It should be the IBM Company.
 13 Q. Who is currently paying as the case
 14 proceeds now before any result?
 15 A. It is a contingency fee. If they,
 16 you know, deliver counsel with his esteem they
 17 will win, right, so they will get paid for it,
 18 otherwise I don't think --
 19 Q. My question relates to the
 20 day-to-day or month-to-month expenses, for
 21 example travel, cost of copying papers, all of
 22 that.
 23 MR. PLASSE: Objection, asked and
 24 answered. I am not even sure there is actually

0134

JOSEPH ANCHINOVSKI

1 a question yet.
 2 MR. KIM: I am not sure he
 3 understands what I'm --
 4 MR. PLASSE: Why don't you ask the

112906anchinovski

question. I will make my objection if I need to.

Q. Can you tell me what you understand expenses to mean?

A. Expenses, it will be as you mentioned, the traveling, telephone calls, emails. Again traveling expenses. Whatever is related to the case. Those are expenses.

Q. Currently is your law firm paying for those expenses?

A. I believe so.

Q. What is the contingency fee?

MR. PLASSE: Hold on a second. I am not sure why that is relevant. I have some concerns about the witness responding. If you want to ask him does he know what it is, things like that, does he have knowledge about it, I'm okay with that. I believe I'll direct him not to answer if you ask him what the amount is.

Q. I will ask it again. What is the

JOSEPH ANCHINOVSKI

contingency fee?

MS. GRAYER: You can ask him if he knows what it is. Set the foundation and let him instruct.

Q. Do you know what the contingency fee is?

A. I do know.

Q. You do know or you don't?

A. I do know.

Q. And what is the contingency fee?

MR. PLASSE: Objection, direct him not to answer.

MR. KIM: On what ground do you object?

MR. PLASSE: I think it is not relevant to any issue from your perspective and it could potentially, the disclosure of the information could potentially have adverse impact on our attempts to represent the class.

Q. At the beginning of the deposition you mentioned you were in the police service, I want to clarify were you in the police service in Argentina?

A. In Argentina. Yes.

JOSEPH ANCHINOVSKI

Q. It sounds exciting. Have you ever been deposed before?

A. No.

Q. How did you prepare for today's deposition?

MR. PLASSE: Okay, you can tell him -- I have an objection generally. You can discuss how you prepared, just do not disclose information that we gave to you and vice versa.

A. The main preparation it was the experience that I went through with IBM. My preparation was my trades that I had made with IBM. And my preparation was to know just a few facts who other will be the plaintiff, you know. To know exactly if he is correct where he was

112906anchinovski
 17 here a reference, you know, of my Complaint and
 18 a reference to the class Complaint itself, the
 19 best of my ability.
 20 Q. Did you meet with anyone in
 21 connection with preparing for today's
 22 deposition?
 23 A. Except for the leading lawyers, you
 24 know, no. Not at all.
 25 Q. How many times did you meet with

0137

1 JOSEPH ANCHINOVSKI
 2 your lawyer?
 3 A. Since I came first, probably could
 4 be about six times.
 5 Q. That was all in preparation for
 6 this deposition?
 7 A. No. No. First in consultation
 8 several times. And then, you know, a couple
 9 times probably with the attorney.
 10 Q. On the deposition?
 11 A. On the deposition here, like today.
 12 Q. Did you review any materials in
 13 preparation for the deposition?
 14 A. Except what they sent me by mail
 15 there is nothing at all. The book, you know.
 16 Q. What they sent you by mail
 17 including the Complaint?
 18 A. Just whatever is in here.
 19 Q. Did you review the piece of paper
 20 that is in your pocket?
 21 A. The numbers that I did, no. No. I
 22 disregarded it because I just -- I should do it,
 23 sure.
 24 Q. When did you create that piece of
 25 paper?

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1 JOSEPH ANCHINOVSKI
 2 A. I did that a couple nights ago that
 3 I wanted to know exactly what I was into to
 4 explain exactly, you know, step by step. I
 5 thought I will be asked about that. Then I made
 6 the numbers to see, you know, precisely if I
 7 lost, if I was between the frame of the class
 8 action, whatever was out, post and pre, you
 9 know. The action, to know what are my stocks
 10 that potentially, you know, I will be claiming
 11 for it, you know, that I was hurt.
 12 Q. Did making those calculations
 13 refresh your recollection as to any matter we
 14 discussed today?
 15 A. Only, you know, what I read in here
 16 together with you. Nothing else.
 17 Q. Have you ever served as a class
 18 representative in any other case before?
 19 A. No.
 20 Q. Have you ever been a member of any
 21 other class before?
 22 A. No.
 23 Q. Have you ever been arrested,
 24 indicted or convicted of any crime?
 25 A. No.

0139

1 JOSEPH ANCHINOVSKI

112906anchinovski

2 Q. Ever been held in contempt of
3 court?
4 A. No, sir.
5 Q. Have you ever been a plaintiff or
6 defendant in any lawsuit?
7 A. No.
8 Q. Have you ever been a witness in a
9 court case?
10 A. No.
11 Q. Have you ever been subject to any
12 investigation by the government?
13 A. No.
14 Q. Have you ever spoken to or
15 communicated with Mr. Rubenstein?
16 A. No.
17 Q. Do you know if anyone else
18 responded to Labaton's ad to which you
19 responded?
20 A. No.
21 Q. Do you know why Lomax and Al-Araj
22 are no longer named plaintiffs in this
23 litigation?
24 A. I don't know them. I don't know
25 the name Lomax at all.

0140

1 JOSEPH ANCHINOVSKI
2 Q. How did you become the lead
3 plaintiff in this action?
4 MR. PLASSE: Objection. It has
5 been asked and answered.
6 Q. There was a period of time when
7 Lomax had his own action and Al-Araj had their
8 own actions. Are you aware those actions were
9 then consolidated into a single action?
10 A. I don't know that.
11 Q. Were you asked to look for any
12 documents in connection with this lawsuit?
13 A. Repeat, I'm sorry.
14 Q. Were you asked to look for any
15 documents in connection with this lawsuit?
16 A. If I asked for any documents, no.
17 I never asked for any.
18 Q. No. Did anyone ever ask you to
19 look for any documents in connection with the
20 lawsuit?
21 MR. PLASSE: Objection to the
22 form. You may answer.
23 A. Except the documents that I
24 present, nobody asked me for any documents.
25 Q. So nobody asked you to search your

0141

1 JOSEPH ANCHINOVSKI
2 files for any documents relating to this
3 litigation?
4 MR. PLASSE: Objection to the
5 form. I think one of the -- I suspect one of
6 the problems is that the question is overly
7 broad. And that if you ask a search for
8 documents in the context of the deposition or in
9 connection with some other aspect of the
10 litigation, you might be able to get a clearer
11 response. I think specifically technically I
12 have an objection to form because I think the

112906anchinovski

13 question is overbroad.

14 Q. Are you aware of any document
15 request that defendants have made in this
16 litigation?

17 A. Whatever I was requested, you know,
18 except the ones that is not related to IBM, no.
19 I just put up whatever is in there.

20 Q. The documents that are currently
21 marked as Exhibits 8 and 9, when you produced or
22 provided those to your attorneys what were you
23 asked to look for?

24 A. What I asked?

25 Q. What did your attorneys ask you to

0142

JOSEPH ANCHINOVSKI

1 look for?

2 MR. PLASSE: I have an objection.
3 I think it is probably protected by the
4 attorney-client privilege, but if you ask in
5 terms of what his search consisted of, I won't
6 have an objection.

7 Q. When you provided the documents,
8 the trade confirmations to your attorneys --

9 A. Yes.

10 Q. -- what did your search consist of?

11 A. Look at the records and bring it
12 forward.

13 Q. Did they ask you to look for
14 anything else beyond that?

15 A. Whatever the defendant requests
16 them, they ask and I just provide whatever I
17 thought was good, you know, for IBM case I did
18 provide it. They request me for documents, you
19 know. But all the documentation that I brought
20 up is the one that is related to IBM, yes.

21 Q. Are you aware of specifically what
22 defendant asked for?

23 A. If I'm aware? Besides the
24 confirmation potentially we're talking about the

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JOSEPH ANCHINOVSKI

1 monthly statements.

2 Q. Did you look for anything else, any
3 other documents besides the confirmations and
4 monthly statements?

5 A. Documents I looked for whatever
6 possible could be for IBM case and I was full on
7 it.

8 MR. KIM: We will take a short
9 break here.

10 VIDEOGRAPHER: Going off the record
11 at 3:45.

12 (Recess taken.)

13 VIDEOGRAPHER: Returning to the
14 record at 3:46 from 3:45.

15 Q. Mr. Anchinovski, thank you for your
16 time today. I have no further questions.

17 A. Thank you very much.

18 MR. PLASSE: Thank you. I don't
19 have any questions. Can we go off, please.

20 VIDEOGRAPHER: This concludes the
21 videotaped deposition of Joseph Anchinovski at
22 3:47 p.m. on --
23

24 112906anchinovski
25 MS. GRAYER: I just want to make
0144 clear this doesn't close the deposition there.

1 JOSEPH ANCHINOVSKI
2 I think there was a question we didn't get an
3 answer to. We also have some concerns about the
4 redactions. So subject to -- I just want to
5 make it clear we are not agreeing this is
6 closed.

7 VIDEOGRAPHER: Going off the record
8 for the day at 3:47 p.m. November 29, 2006.
9 This is end of tape number 2.

10
11 (Time Noted: 3:47 p.m.)
12

13 JOSEPH ANCHINOVSKI
14
15 Subscribed and sworn to before me
16 this ____ day of _____, 2006.
17
18 _____
19
20
21
22
23
24
25

0145
1 JOSEPH ANCHINOVSKI
2 STATE OF NEW YORK) Pg__of__Pgs
3 ss:
4 COUNTY OF NEW YORK)
5 I wish to make the following changes, for the
6 following reasons:
7 PAGE LINE
8 _____ CHANGE: _____
9 _____ REASON: _____
10 _____ CHANGE: _____
11 _____ REASON: _____
12 _____ CHANGE: _____
13 _____ REASON: _____
14 _____ CHANGE: _____
15 _____ REASON: _____
16 _____ CHANGE: _____
17 _____ REASON: _____
18 _____ CHANGE: _____
19 _____ REASON: _____
20 _____ CHANGE: _____
21 _____ REASON: _____
22 _____ CHANGE: _____
23 _____ REASON: _____
24 _____ CHANGE: _____
25 _____ REASON: _____

0146
1 JOSEPH ANCHINOVSKI
2 C E R T I F I C A T E
3 STATE OF NEW YORK) : ss.
4 COUNTY OF NEW YORK)
5 I, TAMMEY M. PASTOR, a Registered
6 Professional Reporter, Certified LiveNote
7 Reporter and Notary Public within and for the
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112906anchinovski

State of New York, do hereby certify:

That JOSEPH ANCHINOVSKI, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2006.

TAMMEY M. PASTOR, RPR, CLR

JOSEPH ANCHINOVSKI
INDEX

WITNESS:

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(Defendant's Exhibit 8 for	34
identification, Citicorp Investment	
Services Confirmations, production	
numbers A 017 through 171.)	
(Defendant's Exhibit 9 for	34
identification, Citicorp Investment	
Services Confirmations, production	
numbers A 001 through 180.)	
